
STATUTORY INSTRUMENTS

1980 No. 1085 (N.I. 11)

NORTHERN IRELAND

The Roads (Northern Ireland) Order 1980

Laid before Parliament in draft

Made 28th July 1980

Coming into operation in accordance with Article 1

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At the Court at Buckingham Palace, the 28th day of July 1980

Present,

The Queen's Most Excellent Majesty in Council

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

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

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Roads (Northern Ireland) Order 1980.

(2) The provisions of this Order, except those mentioned in paragraph (3), shall come into operation on the expiration of one month from the day on which the Order is made.

(3) The following provisions shall come into operation on such day as the Head of the Department may by order appoint—

(a) Article 42, but not the application of paragraphs (3) and (4) of that Article by Article 16 (4);

(b) Article 43;

(c) Schedule 8 in so far as it amends any reference to section 18 of the Roads Act (Northern Ireland) 1948 (b) in any statutory provision;

(d) Schedule 9 in so far as it repeals section 18 of the Roads Act (Northern Ireland) 1948 and any provision amending that section.

Interpretation

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

(2) In this Order—

“bridge” includes a footbridge;

“building” includes any erection of whatsoever material and in whatsoever manner constructed, any part of a building, and any addition to an existing building;

“carriageway” means a way constituted or comprised in a road being a way over which the public have a right of way for the passage of vehicles;

“classified road” means a road classified in accordance with Article 12;

“the Department” means the Department of the Environment;

“fence” includes any hoarding or paling;

“footway” means a way comprised in a road which also comprises a carriage-way, being a way over which the public have a right of way on foot only;

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

“navigable waters” and “navigable watercourse” means waters and a water-course, respectively, over which a public right of navigation exists;

“owner” means a person who is for the time being receiving a rent of not less than two-thirds of the net annual value of any land whether on his

(a) 1974 c. 28.

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

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

own account or as agent or trustee of any other person or who, if the land were let at such a rent, would receive it;

“proposed road” means land upon which the Department is for the time being constructing or intending to construct a road or part of a road in accordance with plans made by it;

“road” means a public road, that is to say a road which is maintainable by the Department, and includes—

(a) a road over which the public have a right of way on foot only, not being a footway,

(b) any part of a road, and

(c) any bridge or tunnel over or through which a road passes,

and “special road” and “trunk road” shall be constructed accordingly;

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

“special road” means a road designated as a special road under Article 14 and includes all land vested in or held by the Department for the purposes of its functions under Part III in connection with that road;

“statutory provision” has the same meaning as in section 1 (*f*) of the Interpretation Act (Northern Ireland) 1954;

“statutory undertakers” means any persons authorised by any statutory provision to carry on any railway, canal, inland navigation, dock, harbour, gas, electricity, or other public undertaking and includes the Post Office;

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

“trunk road” means a road designated as a trunk road under Article 13;

“wall” includes any partition of whatsoever material constructed and any bank.

PART II

CONSTRUCTION, MAINTENANCE AND CLASSIFICATION OF ROADS

Construction of roads

Construction of new roads

3. The Department may construct a new road where it appears to the Department expedient to do so for the purpose of facilitating road traffic.

Construction of bridges and tunnels in relation to navigable waters

4.—(1) The Department may by order provide for the construction as part of a road or as part of a new means of access to any land from a road—

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

(b) of a tunnel under any such waters.

(2) An order under paragraph (1)—

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

(b) shall, if it relates to the construction of a swing bridge, contain such provisions as the Department considers expedient for regulating the operation of the bridge.

(3) Before making an order under paragraph (1) the Department shall take into consideration the reasonable requirements of navigation over the waters affected by the order.

Diversion of navigable watercourses

5.—(1) The Department may by order provide for the diversion of such part of a navigable watercourse as is specified in the order if the Department considers the diversion necessary or desirable in connection with—

- (a) the construction, improvement or alteration of a road;
- (b) the construction of a bridge over or tunnel under any navigable waters;
- (c) the provision of a new means of access to any land from a road;
- (d) the provision of a maintenance compound or service area; or
- (e) the provision of a parking place for vehicles under section 89 of the Road Traffic Act (Northern Ireland) 1970(a).

(2) Where a navigable watercourse is to be diverted in pursuance of an order made under paragraph (1), any new length of watercourse provided in pursuance of that order shall be such as will or, but for any bridge or tunnel constructed over or under it in pursuance of an order under Article 4, would be navigable in a reasonably convenient manner by vessels of a kind which immediately before the commencement of the order were accustomed to use that part of the water-course which is to be replaced by the new length.

(3) Where by virtue of an order made under paragraph (1) the Department may divert any part of a navigable watercourse it may also divert any towing path or way adjacent to that part.

(4) Paragraph (5) shall have effect where—

- (a) works for the diversion of a navigable watercourse have been carried out by the Department in accordance with an order made under paragraph (1); and
- (b) any person has suffered damage in consequence of the works mentioned in sub-paragraph (a)—
 - (i) by the depreciation of any estate in any land to which he is entitled, or
 - (ii) by reason of the fact that his right of access to a navigable watercourse has been interfered with or extinguished.

(5) A person shall be entitled to receive compensation from the Department under this paragraph in respect of the damage where works of the type mentioned in paragraph (4) are carried out unless the works were carried out on land, or in exercise of rights, vested in the Department under Article 53 or vested in the Department or any of its predecessors in title under section 34 of the Roads Act (Northern Ireland) 1948 or any statutory provision repealed by that Act.

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

Extinguishment of certain public rights over navigable waters and foreshore

6. The Department may, if it considers it necessary or desirable to do so in connection with any matter mentioned in Article 5 (1), by order extinguish—

(a) 1970 c. 2 (N.I.).

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

Power to conduct experiments

7.—(1) The Department may, either by itself or through any authority or organisation approved by it, conduct experiments or trials—

- (a) for the improvement of the construction of roads;
- (b) for testing the effect of various classes of vehicles on various types of roads; or
- (c) for any other purpose connected with any function of the Department in respect of roads,

and may construct such roads and works, erect such plant and provide such accommodation as may be necessary.

(2) Subject to paragraph (3), any person who suffers damage by reason of anything done in the exercise of the powers conferred by this Article shall, unless the damage was caused by his negligence, be entitled to recover compensation from the Department in respect of that damage.

(3) If a person claiming compensation under paragraph (2) contributed by his negligence to the damage in respect of which the compensation is claimed, that compensation shall be reduced accordingly.

Maintenance of roads

Duty to maintain roads

8.—(1) The Department shall be under a duty to maintain all roads and for that purpose may provide such maintenance compounds as it thinks fit.

(2) In an action against the Department in respect of damage resulting from its failure to maintain a road it shall be a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the Department had taken such care as in all the circumstances was reasonably required to secure that the part of the road to which the action relates was not dangerous for traffic.

(3) For the purposes of a defence under paragraph (2) the court shall in particular have regard to the following matters—

- (a) the character of the road, and the traffic which was reasonably expected to use it;
- (b) the standard of maintenance appropriate for a road of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the road;
- (d) whether the Department knew, or could reasonably have been expected to know, that the condition of the part of the road to which the action relates was likely to cause danger to users of the road;
- (e) where the Department could not reasonably have been expected to repair that part of the road before the cause of action arose, what warning notices of its condition had been displayed;

but, for the purposes of such a defence it shall not be relevant to prove that the Department had arranged for a competent person to carry out or supervise the maintenance of the part of the road to which the action relates, unless it is also

proved that the Department had given him proper instructions with regard to the maintenance of the road and that he had carried out the instructions.

(4) This Article shall not apply to damage resulting from breaking or opening, or tunnelling or boring under, a road by a statutory undertaker or other person, being damage resulting from an event which occurred before the completion of the re-instatement or making good of the relevant part of the road in the manner required by any statutory provision or rule of law.

Duty to remove snow, soil, etc. which has fallen on a road

9.—(1) If an obstruction occurs in a road from accumulation of snow or from the falling down of banks on the side of the road, or from any other cause, the Department shall remove the obstruction.

(2) If the Department fails to remove an obstruction which it is its duty under this Article to remove, a court of summary jurisdiction may, on an application made by any person, declare the thing complained of to be an obstruction and state a period (not being less than 24 hours) within which the court considers it reasonable, having regard to all the circumstances of the case, that the obstruction should be removed.

(3) In considering whether to make a declaration under this Article and, if so, what period to state for the removal of the obstruction, the court shall in particular have regard to—

- (a) the character of the road to which the complaint relates, and the nature and amount of the traffic by which it is ordinarily used;
- (b) the nature and extent of the obstruction; and
- (c) the resources of manpower, vehicles and equipment for the time being available to the Department for work on roads and the extent to which those resources are being, or need to be, employed by the Department on such work elsewhere.

(4) Where the Department has a duty under this Article to remove an obstruction from a road, it may—

- (a) take any reasonable steps (including the placing of lights, signs and fences on the road) for the purpose of warning users of the road of the obstruction;
- (b) sell or otherwise dispose of anything removed in carrying out its duty, unless the thing is claimed by its owner before the expiration of seven days from the date of its removal;
- (c) without prejudice to Article 29, recover from the owner of the thing which caused or contributed to the obstruction, or where the thing has been sold under sub-paragraph (b), from the previous owner, any expenses reasonably incurred by it as respects the obstruction in carrying out its duty and in exercising any powers conferred by this paragraph, so however that no such expenses shall be recoverable from a person who proves that he took reasonable care to secure that the thing in question did not cause or contribute to the obstruction.

(5) Where the Department sells anything in exercise of its powers under paragraph (4), then—

- (a) if any expenses are recoverable under that paragraph by the Department from the previous owner of the thing, it may set off the expenses against the proceeds of sale (without prejudice to the recovery of any balance of the expenses from the previous owner) and shall pay over any balance of the proceeds to the previous owner; and

(b) if no expenses are so recoverable, it shall pay over the whole of the proceeds of sale to the previous owner.

(6) An application under paragraph (2) shall be initiated by notice in accordance with Part VIII of the Magistrates' Courts Act (Northern Ireland) 1964 (a).

(7) It is hereby declared that nothing in this Article operates to confer on any person a right of action in tort against the Department for failing to carry out any duty imposed on it under this Article.

Extraordinary traffic

10.—(1) Subject to paragraphs (2) and (3), where as respects any road it appears to the Department that, having regard to the usual expense of repairing or maintaining the road or other similar roads in the neighbourhood, extraordinary expenses have been incurred by the Department in repairing or maintaining the road by reason of the damage caused by—

- (a) excessive weight passing along the road, or
- (b) other extraordinary traffic thereon,

the Department may recover from any person (in this Article referred to as "the undertaker") by or on behalf of whom the traffic has been conducted any expenses reasonably incurred by the Department in consequence of that damage.

(2) If, before traffic which may cause such damage commences, the undertaker admits liability in respect of such traffic, the undertaker and the Department may enter into an agreement for the payment by the undertaker to the Department of a sum by way of a composition of such liability or either party may require that the sum to be so paid shall be determined by arbitration.

(3) Where a sum has been agreed upon under paragraph (2) the undertaker shall be liable to pay that sum to the Department, and on payment thereof shall not be liable to proceedings under paragraph (1).

(4) Proceedings for the recovery of any sums under this Article shall be commenced within one year of the time at which the damage has been done or, where the damage is in consequence of any particular building contract or other work extending over a long period, shall be commenced not later than 6 months after the completion of the contract or work.

Transfer to Department of road bridges over railways

11.—(1) This Article applies to every bridge which carries a road over a railway line and—

- (a) is vested in the Northern Ireland Transport Holding Company (in this Article referred to as "the Holding Company") by virtue of section 68 of the Transport Act (Northern Ireland) 1967 (b) or otherwise acquired by it; and
- (b) is, in accordance with the provisions of section 69 (1) (b) of that Act, let to the Northern Ireland Railways Company Limited (in this Article referred to as "the railway undertaking") in connection with the operation of its railway system.

(2) Subject to the following provisions of this Article, every bridge, including any building or structure thereon and the road carried thereby, to which this Article applies is hereby transferred to, and shall by virtue of this Article and

(a) 1964 c. 21 (N.I.).

(b) 1967 c. 37 (N.I.).

without more vest in, the Department for all the estate of the Holding Company and the railway undertaking therein.

(3) Subject to paragraph (4), upon the transfer of any bridge to which this Article applies—

- (a) the bridge shall for all purposes become part of the road;
- (b) any liability of the Holding Company or the railway undertaking for the improvement, maintenance or repair of the bridge or the road shall be extinguished; and
- (c) any statutory provision in force, in relation to the bridge, for the benefit or protection of any statutory undertakers shall have effect, subject to any necessary modifications, as if for any reference therein to the railway undertaking there were substituted a reference to the Department.

(4) The Department may agree in writing with the Holding Company and the railway undertaking that the provisions of paragraph (3) with respect to the transfer of property shall not apply to such property comprised in the bridge as may be specified in the agreement.

(5) The Department shall not reduce the headway or spans of any bridge to which this Article applies without the consent of the railway undertaking.

(6) Any consent required for the execution of any works by the Department under paragraph (5) shall not be unreasonably withheld.

(7) Any dispute between the Department and—

- (a) the railway undertaking as to whether or not consent is being unreasonably withheld under paragraph (6); or
- (b) any person as to—
 - (i) the property or liabilities transferred under this Article, or
 - (ii) the liability of the Department to carry out any works under this Article,

shall be determined by arbitration.

(8) For the purposes of this Article “bridge” includes the abutments and walls thereof and so much of the approaches thereto as carry the roads.

Classification of roads

Classification of roads

12.—(1) The Department may by order classify roads in such a manner as appears to it to be expedient.

(2) An order under paragraph (1) may classify roads as being first-class roads, second-class roads or third-class roads, or as being of any other class specified in the order.

Trunk roads

13.—(1) Where the Department considers it expedient for the purpose of extending, improving or reorganising the trunk system that any road should be designated as a trunk road, the Department may by order direct that—

- (a) any existing road,
- (b) any road in the course of construction, or
- (c) any road proposed to be constructed,

shall become a trunk road; and the trunk system shall be modified accordingly.

(2) In this Article “the trunk system” means the main system of routes for through traffic in Northern Ireland.

PART III

SPECIAL ROADS

Designation of special roads

14.—(1) Where the Department considers it expedient that—

- (a) any existing road,
- (b) any road in the course of construction, or
- (c) any road proposed to be constructed,

should be designated as a special road, the Department may make an order designating that road or proposed road as a special road.

(2) The Department shall not make an order designating an existing road as a special road unless it is satisfied that adequate alternative facilities for traffic, other than traffic authorised to use the road on its being opened for use as a special road, are available or will be made available before the date on which the road is opened for use as a special road.

(3) Without prejudice to any other provision of this Part, an order under this Article may authorise the Department to construct a new road where it appears to the Department to be necessary or desirable for any purpose connected with a special road and, where any such new road is constructed for temporary purposes, to close that road after such period as may be specified in or determined under the order.

Restriction on laying of mains, etc. in special roads

15.—(1) Subject to the following provisions of this Article and paragraphs 1 to 4 of Schedule 7 (saving provisions in respect of the Post Office) the powers conferred on statutory undertakers by or under any statutory provision to lay down or erect any apparatus under or over any land shall not be exercisable in relation to any land comprised in the route of a special road except with the consent in writing of the Department.

(2) The consent of the Department shall not be required under this Article for the laying down or erection by statutory undertakers of any apparatus by way of renewal of any apparatus for the time being vested in or belonging to them.

(3) The consent of the Department under this Article may be given subject to conditions, but those conditions shall not include a condition requiring any payment to be made by the statutory undertakers to the Department in respect of the exercise of the powers to the exercise of which the consent is given.

(4) Where any apparatus in respect of which the consent of the Department is required under this Article is proposed to be laid down or erected along a line crossing the route of a special road but not running along that route, the Department—

- (a) shall not withhold its consent under this Article unless there are special reasons for doing so; and
- (b) may, if it gives its consent subject to conditions, make contributions to the statutory undertakers in respect of any expenses incurred by them in complying therewith.

(5) Any dispute between the Department and any statutory undertakers in respect of—

- (a) the withholding of the consent of the Department in respect of apparatus to be laid down or erected as mentioned in paragraph (4);
- (b) the imposition of any condition on the grant of such consent; or

(c) the making of any contributions under paragraph (4) (b); shall be determined by arbitration.

(6) This Article shall have effect in addition to and not in substitution for any other statutory provision restricting or regulating the powers of any statutory undertakers to break open streets or enter upon land for the purpose of laying down or erecting apparatus.

Restriction of access, etc. in connection with special roads

16.—(1) Subject to paragraph (2), the Department may make an order to authorise—

- (a) the stopping-up of any private means of access to land abutting on or adjacent to a special road or land forming the site of any works authorised by an order made under this Order;
- (b) the provision of new means of access to any such land.

(2) No order shall be made under paragraph (1) (a) unless the Department is satisfied that—

- (a) access to the land is not reasonably required, or
- (b) another reasonably convenient means of access to the land is available or will be provided in pursuance of an order made by virtue of paragraph (1) (b).

(3) Any person, other than a person authorised by the Department, who constructs, forms, lays out or alters any means of access to a special road shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(4) Article 42(3) and (4) shall have effect where a person is convicted of an offence under paragraph (3) in the same manner as it has effect where a person is convicted of an offence under paragraph (1) of that Article.

Compensation where rights of access stopped-up or restricted under Article 16

17.—(1) Where—

- (a) access to any land has been stopped-up in pursuance of an order made under Article 16 (1) (a) or is limited by virtue of the restrictions imposed under this Part on the use of a special road, and
- (b) any person has suffered damage in consequence thereof by the depreciation of any estate in the land to which he is entitled or by being disturbed in his enjoyment of the land,

he shall be entitled to recover from the Department compensation in respect of that damage.

(2) In assessing compensation to which any person is entitled by virtue of this Article regard shall be had to any new means of access provided or to be provided by the Department.

(3) Any question of disputed compensation arising under this Article shall be referred to and determined by the Lands Tribunal.

Classification of traffic for purposes of special roads

18.—(1) A special road shall be for the use of such classes of traffic as may be prescribed in an order made under Article 14 and different classes of traffic may be so prescribed in relation to different parts of a special road.

(2) The classes of traffic prescribed by an order under Article 14 shall be prescribed by reference to the classes set out in Schedule 1.

(3) The Department may, by order made subject to affirmative resolution, vary the composition of any class of traffic specified in Schedule 1, and, where any such order has come into operation, any reference in an order made under Article 14, whether made before or after the date on which an order under this paragraph comes into operation, to any class of traffic to which the order relates shall be construed as a reference to that class as varied by the order under this paragraph.

Restrictions on use of special roads

19.—(1) A special road shall not be used, except as provided by or under regulations made under this Article, by any traffic other than traffic of a class prescribed in relation to that road by an order made under Article 14.

(2) Until such date as may be declared by a notice published by the Department in the Belfast Gazette as the date on which a special road is open for use by traffic of the prescribed classes, no person shall use that special road unless he is authorised by the Department to do so.

(3) The Department may make regulations with respect to the use of special roads, and such regulations may, in particular—

(a) specify the manner in which and the conditions subject to which such roads may be used by traffic of the classes prescribed in relation to those roads in an order made under Article 14;

(b) authorise, or enable such authority as may be specified in the regulations to authorise, the use of such roads, on occasion or in emergency, or for the purpose of crossing, or for the purpose of securing access to land abutting on or adjacent to the roads, by traffic other than such traffic as aforesaid, or relax, or enable any such authority as aforesaid to relax, any prohibition or restriction imposed by the regulations.

(4) If any person uses a special road in contravention of paragraph (1) or (2), or of any regulations made under paragraph (3), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.

(5) This Article (other than paragraph (2) and so much of paragraph (4) as relates thereto) and any regulations made thereunder shall not apply to any part of a special road until the date declared by the notice mentioned in paragraph (2) as the date on which it is open for use by traffic of the prescribed classes, so, however, that nothing in this paragraph shall be construed as preventing the making of regulations under this Article so as to come into force, in relation to any such road, on that date.

Prohibition and control of advertising, etc. on or near special roads

20.—(1) Subject to paragraphs (2) and (3), any person who erects or exhibits or causes or permits to be erected or exhibited any advertisement or notice which is sited or designed wholly or mainly for the purpose of being visible to persons using a special road or which is likely to prejudice the safety of traffic using a special road shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(2) Paragraph (1) shall not apply to—

(a) traffic signs or other notices erected or exhibited by, or by the direction of, an officer authorised by the Department or the Royal Ulster Constabulary;

(b) advertisements or notices exhibited on any structure, wall, hoarding or other apparatus which was in use for the exhibition of advertisements or notices which are or would be visible to the users of a special road at the time of the first publication in relation to that road of the notice referred to in paragraph 1 of Schedule 6.

(3) The Department may by regulations exempt from the provisions of paragraph (1) advertisements or notices of any class or description specified in the regulations or situated in any areas so specified or which comply with such conditions, if any, as may be so specified.

(4) Any person convicted of an offence under paragraph (1) shall within such period as the court may allow remove any advertisement or notice so exhibited or displayed in contravention of that paragraph, and if he fails to do so he shall be deemed to commit a continuing offence and shall be liable on summary conviction to a fine not exceeding £10 for each day upon which such failure continues.

(5) When a person who has been convicted under paragraph (1) becomes liable under paragraph (4) to prosecution for a continuing offence, the Department may thereupon remove the advertisement or notice and do all such things as may be necessary for that purpose and may recover from that person any expenses thereby reasonably incurred by it.

(6) Where in the opinion of the Department any advertisement or notice referred to in paragraph (2)(b) is prejudicial to the safety of traffic using a special road, the Department may serve a notice upon the owner or occupier of the land on which the advertisement or notice is situated directing him to remove the advertisement or notice (including any structure, wall, hoarding or other apparatus on which the advertisement or notice is exhibited) and, where a notice is so served, paragraphs 3 to 8 of Schedule 2 shall apply as if the notice had been served under Article 30.

Provision of service areas for users of special roads

21. The Department may provide, or arrange for the provision of, service areas for users of special roads.

Powers under this Part to be cumulative

22. The powers conferred on the Department by this Part shall, unless the context otherwise requires, be construed as being in addition to and not in derogation of the powers conferred on the Department by any other Part of this Order or by any other statutory provision.

PART IV

IMPROVEMENT AND SAFETY OF ROADS

Improvement of roads

General power of improvement

23.—(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

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

- (a) the supply of gas, 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 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) In this Article “street” includes any road, lane, square, court, alley or passage, whether a thoroughfare or not.

Drainage of roads

25.—(1) For the purpose of draining a road or otherwise preventing surface water from flowing on to it, the Department may carry out any of the following works in a road or in land adjacent to or adjoining a road—

- (a) the construction and laying of drains;
- (b) the erection of barriers to divert surface water into or through any existing drain;
- (c) the scouring, cleansing and keeping open of drains.

(2) Where under paragraph (1) a drain has been constructed or laid, or barriers have been erected, for the purpose of draining surface water from a road or, as the case may be, diverting it into an existing drain, the water may be discharged into or through that drain and into any inland waters, whether natural or artificial, or any tidal waters.

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

(4) 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.

(5) Any person who obstructs or interferes with a drain which drains a road, or a barrier which prevents surface water from flowing on to a road, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(6) Where a person is convicted of an offence under paragraph (5), the Department may recover from him the expenses reasonably incurred by it in carrying out works of repair or re-instatement necessitated by his action.

(7) In this Article and Article 26 “drain” includes any ditch, cut, culvert, soakaway, dyke or sluice.

Acquisition of drains

26.—(1) The Department may, for the discharge of surface water from a road, 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).

(2) Any person who, before the acquisition of a drain under paragraph (1) 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.

(3) Article 53(4) and Schedule 4 shall apply where under paragraph (1) the Department acquires otherwise than by agreement any drain or any right.

Filling in of roadside ditches

27.—(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 and Article 25(4) shall apply to any claim for compensation under this paragraph.

Safety of roads

Removal of potentially dangerous trees and hedges

28.—(1) 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 premises 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.

(2) Where a person upon whom a notice is served under this Article fails to carry out the works necessary to comply with the requirements of the notice and the Department carries out the works in accordance with Article 39(4)(b), the Department—

- (a) may sell or otherwise dispose of any tree removed or any part of any tree lopped in accordance with the requirements of the notice; and

- (b) shall apply the proceeds of such sale or disposal towards the cost of carrying out the requirements of the notice, and shall pay to the owner or occupier any sum by which the proceeds exceed such cost.

Removal of fallen structures, trees, etc.

29.—(1) Where from any cause any wall, fence or other structure (whether of the same kind as those before enumerated, or not) or a tree, or a branch or bough thereof, erected or growing on land adjoining a road or growing on the 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.

Prevention of obstruction to view, etc.

30. 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 2.

Dangerous land adjoining roads

31. 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; or
(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,

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

Prevention of soil, etc. being washed on to roads

32. The Department may serve a notice on the owner or occupier of any land abutting upon any road, requiring him to do such works as are necessary to prevent soil or refuse 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

33. The Department may serve a notice on the owner or occupier of any land adjoining a road, requiring him to do such works as are necessary to prevent—

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

Removal of barbed wire

34.—(1) Where on any land adjoining a road there is a fence made with barbed wire, or having barbed wire in or on it, and the wire is a nuisance to users of the road, the Department may serve a notice on the occupier of the land requiring him to carry out such works as are necessary to abate the nuisance.

(2) For the purposes of this Article “barbed wire” means any wire with spikes or jagged projections, and barbed wire shall be deemed to be a nuisance to users of a road if it is likely to be injurious to persons or animals using the road.

Removal of projections from buildings

35.—(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

(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, awning, sign, sign post, sign iron, showboard, gate, door, bar, wall, fence or step, or any other obstruction or projection.

Cattle-grids

36.—(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) In this and the next following 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.

Contributions towards cost of cattle-grids

37.—(1) 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 Article 36.

(2) An agreement under paragraph (1) 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.

(3) 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 this Article.

Erection of structures on roads

38.---(1) The Department---

(a) may cause or permit to be erected on any road---

(i) shelters for the protection from the weather of persons waiting to enter public service vehicles;

(ii) rails or other barriers for the regulation of the priority of such persons;

(iii) posts denoting stopping places of public service vehicles;

(b) may permit to be erected on or near any road platforms for facilitating the loading or unloading of milk-cans;

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---

(a) maintain any structure referred to in paragraph (1)(a); or

(b) where the structure was erected by any other person, acquire the structure by agreement with that person and maintain it.

Notices and appeals

39.---(1) This Article applies to notices served under this Part, other than notices served under Article 30.

(2) A notice shall---

(a) describe the works to be carried out; and

(b) require the person upon whom it is served to carry out those works within the specified period.

(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 £50 and, for each day after conviction that such failure continues he shall be deemed to have committed a continuing offence and shall be guilty of an offence and liable on summary conviction to a fine not exceeding £10;

(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.

PART V

ABANDONMENT AND STOPPING-UP OF ROADS AND PRIVATE ACCESSES

Abandonment and stopping-up of roads

40.—(1) Subject to paragraph (3), the Department may make an order for the stopping-up or abandonment, either wholly or to such extent as may be specified in the order, of any road, where—

- (a) the Department is of the opinion that the road is no longer necessary for road traffic or that another road is available which provides, or is capable, if improved, of providing alternative facilities for road traffic; or
- (b) the order provides for the carrying out of such works as the Department considers necessary for the provision of alternative facilities for road traffic before the existing road is stopped-up or abandoned.

(2) An order made under paragraph (1) may provide for the retention or removal of any cables, wires, mains, pipes or other apparatus placed along, across, over or under the stopped-up or abandoned road, and for the extinction, modification or preservation of any rights as to the use or maintenance of such cables, wires, mains, pipes or apparatus; and may contain such consequential, incidental and supplementary provisions as appear to the Department to be necessary or expedient for the purposes of the order.

(3) The Department shall not make an order under paragraph (1) unless it is satisfied that provision has been made, upon terms agreed upon between the persons interested in or affected by the proposed order for the payment—

- (a) of the cost of any works which by any provision of the proposed order any person is to be required to carry out;
- (b) of compensation in respect of the extinction or modification of any right proposed to be extinguished or modified by the order,

and in default of agreement such terms shall be determined by arbitration.

Stopping-up of private accesses

41.—(1) Where the Department considers that the use of a private means of access from a road to any land is likely to cause danger to, or to interfere unreasonably with, traffic on the road, the Department may make an order providing for—

- (a) the stopping-up of the access to the land;
- (b) the provision of a new means of access to the land.

(2) No order shall be made under paragraph (1) (a) unless the Department is satisfied that—

- (a) access from the road to the land is not reasonably required; or
- (b) another reasonably convenient means of access to the land is available or will be provided in pursuance of an order made under paragraph (1) (b).

(3) The Department may agree with the occupiers of any land and any other person having an estate therein that any private means of access to the land from a road shall be stopped-up by it and, where it appears to the parties to be necessary, may provide a new means of access to the land.

(4) The Department may stop-up a means of access in any way that seems to it to be appropriate, but shall not do so in such a way as to obstruct any public right of way on foot.

(5) Schedule 3 shall have effect in relation to an order made under paragraph (1).

(6) Any person, other than a person exercising a public right of way on foot, who uses a means of access which has been stopped-up under this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(7) Article 17 (compensation where rights of access stopped-up or restricted) shall apply where access to any land has been stopped-up under this Article in the same manner as it applies to an order made in relation to Article 16 (1).

PART VI

LAWFUL AND UNLAWFUL INTERFERENCE WITH ROADS

Restriction of building, alteration of fences, etc.

42.—(1) Any person who without the consent of the Department—

(a) erects or makes any building, wall, fence or any other structure whatsoever whether permanent or temporary on any road;

(b) makes any pit, ditch, drain, watercourse or other excavation—

(i) on, or within 12 metres of the nearest part of, a special road; or

(ii) on, or within 12 metres of the middle of, a carriageway of a first-class or a second-class road; or

(iii) on, or within 9 metres of the middle of, a carriageway of any other road;

(c) constructs any means of access to a classified road from agricultural land (within the meaning of the Agriculture Act (Northern Ireland) 1949(a)) where the construction of that access would be permitted by a development order;

(d) alters any ditch, drain or fence at the side of a road; or

(e) otherwise breaks up the surface of any road;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(2) Anything which by virtue of any of the provisions of paragraph (1) may be done only with the consent of the Department shall, if done without such consent, be deemed not to be a contravention of that provision if—

(a) it is work done in the course of constructing a means of access to any road and planning permission has been granted in respect of that work under Article 17(1) of the Planning (Northern Ireland) Order 1972 (b);

(b) it has the effect only of repairing any lawful work or of restoring it to substantially the form in which it was at any time within the period of 3 years immediately before that thing was done; or

(c) it is done by any statutory undertakers in the exercise of any statutory power in relation to a road which is not a special road.

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

(a) remove any building, wall, fence or other structure so erected or made or any means of access so constructed;

(a) 1949 c. 2 (N.I.).

(b) S.I. 1972/1634 (N.I. 17).

(b) fill in any excavation or restore anything altered, broken up or taken away;

(c) make good any damage done;

in contravention of that paragraph, and if he fails to do so he shall be deemed to commit a continuing offence, and shall be liable on summary conviction to a fine not exceeding £10 for each day upon which such failure continues.

(4) Where a person who has been convicted of an offence under paragraph (1) becomes liable to prosecution for a continuing offence under paragraph (3), the Department may thereupon itself do anything which he has failed to do, and may recover any expenses thereby reasonably incurred by it.

(5) A consent for the purposes of paragraph (1) may be given by the Department where it is satisfied that the safety or convenience of traffic using the road, or which may be expected to use the road, will not thereby be prejudiced, and any such consent shall be given subject to such conditions as seem to the Department to be adequate for securing—

(a) the proper completion of the works and re-instatement of the road, and
(b) the safety and convenience of traffic;

and any such conditions shall in particular include conditions designed to ensure—

- (i) safe access to the road for traffic likely to use the road as a result of the execution of anything to which the consent relates, and
- (ii) the provision of adequate accommodation adjoining the road for vehicles which, by waiting to load or unload or otherwise using the road for any purpose relating to any such thing as aforesaid, might reasonably be expected to obstruct the traffic on the road.

(6) Summary proceedings for any offence under paragraph (1) shall not be commenced after the expiration of a period of 6 months from the date on which evidence sufficient in the opinion of the Department to justify a prosecution for the offence comes to the knowledge of the Department, or after the expiration of a period of one year after the commission of the offence, whichever period last expires; and for the purposes of such proceedings a certificate purporting to be signed by the secretary of, or other officer authorised by, the Department as to the date on which such evidence as aforesaid came to the knowledge of the Department shall be conclusive evidence thereof.

(7) The foregoing provisions of this Article shall have effect in relation to trunk roads as they have effect in relation to roads classified as first-class or as second-class roads.

(8) In Article 22 of the Planning (Northern Ireland) Order 1972—

(a) after paragraph (1)(c), there shall be inserted the following sub-paragraph—

“or

(d) consist of or include the construction, formation, laying out or alteration of a means of access to a trunk road or of any other development of land within 67 metres of the middle of such a road, or of the nearest part of a special road;”;

(b) after paragraph (5), there shall be inserted the following paragraph

“(6) In this Article “road” includes a proposed road and “special road”, “trunk road” and “proposed road” have the same meaning as in the Roads (Northern Ireland) Order 1980.”.

(9) In this Article—

“constructing a means of access” includes forming, laying out or altering that means of access, and

“development order” and “planning permission” have the same meaning as in the Planning (Northern Ireland) Order 1972.

Determination of disputes under Article 42

43.—(1) Any person aggrieved by the withholding by the Department of consent under Article 42, or by the imposition by the Department of any such condition as aforesaid, may within twenty-one days of receiving notice thereof give notice in writing to the Department requiring the matter in dispute to be heard 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 appointed under paragraph (1) shall for the purpose of such hearing have all the powers conferred on an arbitrator by the Arbitration Act (Northern Ireland) 1937(a) and, on the conclusion of the hearing, shall make his recommendations to the Department.

(3) Where the Department proposes to act in any case otherwise than in accordance with such a recommendation, a copy of the proposal together with a copy of the recommendation and of a report of the Department thereon shall be laid before the Northern Ireland Assembly.

(4) If the Northern Ireland Assembly within the statutory period next after the date upon which such copies were laid before it under paragraph (3) resolves that effect shall not be given to such proposal, the proposal shall not take effect; and in any such case the Department shall take such steps (if any) as may be necessary to give effect to the recommendation.

Vehicle-crossings over footways and verges

44.—(1) Where the occupier of any land adjoining or having access to a road habitually takes or permits to be taken a mechanically-propelled vehicle across a kerbed footway or a verge in the road to or from that land, the Department may serve a notice on the owner and the occupier of that land requiring that such works be executed for the construction of a vehicle-crossing over the footway or verge as may be specified in the notice.

(2) Article 39 shall have effect in relation to notices served under this Article.

Restriction on placing rails, beams, etc. over roads

45.—(1) No person shall fix or place any overhead beam, rail, pipe, cable-wire or other similar apparatus over, along or across any road without the consent of the Department.

(2) The Department shall not withhold its consent unreasonably, but may give it subject to such reasonable terms and conditions as it thinks fit.

(3) Any person acting in contravention of paragraph (1) or of the terms and conditions (if any) imposed under paragraph (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50 and for each day after conviction on which any offence is continued shall be liable on summary conviction to a fine not exceeding £10.

(4) Nothing in this Article extends to any works or apparatus belonging to any statutory undertaker.

(a) 1937 c. 8 (N.I.)

Causing damage to roads

46.—(1) Any person who without lawful authority or reasonable excuse deposits anything whatsoever on a road and thereby causes damage to it shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(2) Any person who, without the consent of the Department or an authorisation given by or under a statutory provision or a reasonable excuse, paints or otherwise inscribes or affixes any picture, letter, sign or mark upon the surface of a road or upon any tree, structure or other works in or on a road shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(3) Any person who causes damage to a road by digging, raising or carrying away any gravel, stones, sand or other materials from the side of the road, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(4) Where any person is convicted of an offence under paragraph (1), (2) or (3), the Department may recover from that person any expenses reasonably incurred by it in repairing the damage which he has caused to the road or in removing any picture, letter, sign or mark so painted, inscribed or affixed.

(5) In this Article "road" includes any part of an embankment supporting a road, any part of a bank which flanks a road or any retaining wall or flank wall belonging to a road.

Obstruction of roads

47. Any person who, without lawful authority or reasonable excuse, in any way wilfully or negligently obstructs the free passage along a road shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

Causing danger to road users

48.—(1) Any person who, without lawful authority or reasonable excuse, lights a fire or discharges a firework within 15 metres of the centre of a road, and in consequence thereof a user of the road is injured, interrupted or endangered, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(2) Subject to paragraph (3) any person who—

(a) without lawful authority—

(i) pitches a booth, stall or stand, or

(ii) offers or exposes anything for sale, or for the purpose of sale; or

(b) without reasonable excuse encamps, or maintains an encampment consisting of a tent, caravan or any other form of shelter,

on a road, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(3) A person shall not be guilty of an offence under paragraph (2) (a) (ii) if he offers or exposes anything for sale in circumstances where, by virtue of the proviso to section 1 (1) of the Street Trading (Regulation) Act (Northern Ireland) 1929 (a), he would not be required to obtain a licence under that section authorising him so to do.

(4) Any person convicted of an offence under paragraph (2) shall within such period as the court may allow remove from the road any booth, stall or stand, or any thing offered or exposed for sale, or any encampment, and if he fails to do so he shall be deemed to commit a continuing offence and shall be liable on summary conviction to a fine not exceeding £10 for each day upon which such failure continues.

(5) Where a person who has been convicted of an offence under paragraph (2) becomes liable to prosecution for a continuing offence under paragraph (4), the Department may thereupon itself do anything which he has failed to do, and may recover any expenses thereby reasonably incurred by it.

(6) Any person who plays a game on a road to the danger of a user of the road, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(7) Any person who—

(a) turns loose any animal onto a road; or

(b) by negligence or illusage in driving any animal on a road causes any person to be injured or property to be damaged by such animal;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(8) If any animal is at any time found wandering or lying on or at the side of a road, the keeper thereof shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(9) For the purposes of paragraph (8) it shall be a defence for the keeper of an animal to show—

(a) that he took reasonable precautions to prevent the animal from wandering onto the road; or

(b) that the animal had wandered onto the road from unfenced land and that—

(i) the land is situated in an area where fencing is not customary, and

(ii) that he had a right to place the animal on that land.

(10) In paragraphs (7) to (9)—

“animal” means any horse (including pony, ass and mule), cattle, sheep, goat or swine; and

“keeper” has the same meaning as in Article 2 (2) (b) of the Animals (Northern Ireland) Order 1976 (a).

Depositing of things on roads

49.—(1) Any person who deposits, or causes or permits to be deposited, building materials, rubble, rubbish, compost, dung, or any other thing whatsoever on a road in such a position as to cause, or be likely to cause, any obstruction or danger, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(2) Any person convicted of an offence under paragraph (1) shall within such period as the court may allow remove the thing in question from the road, and, if he fails to do so, he shall be deemed to commit a continuing offence and shall be liable on summary conviction to a fine not exceeding £10 for each day upon which such failure continues.

(a) S.I. 1976/1040 (N.I. 13).

(3) Where a person is convicted of a continuing offence under paragraph (2), the Department may remove the thing in question from the road and dispose of it in such manner as it thinks fit.

(4) Without prejudice to the bringing of any proceedings under paragraph (1), where the Department has reasonable grounds for considering—

(a) that any thing deposited on the road constitutes a danger (including a danger caused by obstructing the view) to users of the road; and

(b) that the thing in question ought to be removed without delay,

the Department may remove the thing forthwith and dispose of it in such manner as it thinks fit.

(5) Where any thing is disposed of by sale under paragraph (3) or (4), the expenses of removal and sale 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 (a) and the owner shall have no claim in respect of it.

(6) Where the Department disposes of any thing under paragraph (3) or (4)—

(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 deposited that thing on the road any expenses reasonably incurred by it in removing and disposing of the thing.

Mud, etc. on roads

50.—(1) Any person who, being in charge of a vehicle on a road allows such quantity of mud, clay, lime, farmyard manure, or other material from the vehicle, or being carried on the vehicle, to drop or be spilled on the carriageway of a road so as to create, or be likely to create, a danger or substantial inconvenience to persons using the road, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(2) Any person who wilfully or recklessly allows any filth, dirt, lime or other offensive matter to run or flow on to a road from any adjoining land, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(3) For the purposes of paragraph (1)—

(a) a person is in charge of a vehicle if, as owner or otherwise he has immediate charge or control of the vehicle, or if, being present, he is entitled to give orders to the person having such charge or control; and

(b) "vehicle" includes anything towed by a vehicle.

(4) Where a person has been convicted of an offence under paragraph (1) or (2), the Department may recover from that person any expenses reasonably incurred by it in removing from the road any substance referred to in those paragraphs.

(a) 1954 c. 9 (N.I.).

Control of builders' skips

51.—(1) The owner of a builder's skip, who causes or permits it to be deposited in such a position on a road as to cause or be likely to cause a danger (including danger arising from obstructing the view of persons entering or using a road), shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(2) The Department may make regulations specifying conditions subject to which builders' skips may be deposited on roads, and, in particular, conditions relating to—

- (a) the siting of skips,
- (b) the marking on skips of the name and telephone number or address of the owner thereof,
- (c) their dimensions,
- (d) the manner in which they are to be coated with paint or other material for the purpose of making them immediately visible to oncoming traffic,
- (e) the care and disposal of their contents,
- (f) the times at and manner in which they are to be lighted or guarded,
- (g) their removal.

(3) Regulations made under paragraph (2) may specify positions and circumstances in which the owner of a builder's skip shall not cause or permit it to be deposited on roads without obtaining the consent of the Department.

(4) Where the owner of a builder's skip contravenes any regulations made under paragraph (2), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(5) Where the commission by any person of an offence under paragraph (1) or (4) is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(6) In any proceedings for an offence under paragraph (1) or (4) it shall, subject to paragraph (7), be a defence for the person charged to prove that the commission of the offence was due to the act or default of another person and that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

(7) A person charged with an offence under paragraph (1) or (4) shall not, without leave of the court, be entitled to rely on the defence provided by paragraph (6) unless, within a period ending 7 days before the hearing, he has served on the complainant a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

(8) Nothing in this Article shall be taken as authorising the creation of a nuisance or danger to roadusers or imposing on the Department any liability for injury, damage or loss resulting from the presence on a road of a builder's skip.

Removal of builders' skips

52.—(1) Where a builder's skip has been deposited on a road an officer authorised by the Department or a constable in uniform may require the owner of the skip to remove or reposition it or cause it to be removed or repositioned notwithstanding that the skip has been deposited on the road in accordance with conditions specified in regulations made under Article 51 (2).

(2) A person required to remove or reposition, or cause to be removed or repositioned, a skip under a requirement made by virtue of paragraph (1) shall comply with the requirement as soon as practicable, and if he fails to do so he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(3) An officer authorised by the Department or a constable in uniform may remove or reposition a builder's skip or cause it to be removed or repositioned.

(4) Where a skip has been removed under paragraph (3), the Department or, as the case may be, a police officer shall, where practicable, notify the owner of its removal, but if the owner cannot be traced, or if after a reasonable period of time after being so notified he has not recovered the skip, the Department or a police officer may dispose of the skip and its contents.

(5) Any expenses reasonably incurred by the Department or a police officer in the removal or repositioning of a skip under paragraph (3) or the disposal of a skip under paragraph (4) may be recovered from the owner of the skip.

(6) Any proceeds of such a disposal as is mentioned in paragraph (4) shall be used in the first place to meet the expenses reasonably incurred in the removal and disposal of the skip and its contents and thereafter any surplus shall be given to the person entitled thereto if he can be traced 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.

(7) References in this Article to expenses incurred in the removal of a builder's skip shall include references to expenses incurred in storing the skip until it is recovered by the owner or, as the case may be, disposed of.

(8) In this Article and in Article 51—

“builder's skip” means a container designed to be carried on a vehicle and to be placed on a road or other land for the storage of builders' materials, or for the removal and disposal of rubble, waste, household and other rubbish or earth;

“constable” means a member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve;

“owner”, in relation to a builder's skip which is the subject of a hiring agreement, being an agreement for a hiring of not less than one month, or a hire purchase agreement, means the person in possession of the skip under that agreement;

“police officer” means a member of the Royal Ulster Constabulary not below the rank of Inspector.

PART VII

ACQUISITION OF LAND

Acquisition of land

53.—(1) The Department may, for any purpose in connection with the performance of any of its functions under this Order—

(a) acquire by agreement or compulsorily any land including land on either side of a road or proposed road within 200 metres from the middle thereof;

(b) dispose of any land so acquired.

(2) Without prejudice to the generality of paragraph (1), the Department may acquire under sub-paragraph (a) of that paragraph—

- (a) land adjacent to a road which is being constructed or improved by the Department if the land is required for the depositing of matter obtained in the course of constructing or improving the road;
- (b) land required for the purpose of providing—
 - (i) service areas, being land within 200 metres of the middle of a special road,
 - (ii) maintenance compounds, or
 - (iii) parking places for vehicles under section 89(1) of the Road Traffic Act (Northern Ireland) 1970; and
- (c) land required for the purpose of providing a means of access to a road from any land, including any land which will be, or has been, deprived of a means of access to a road by the construction or improvement of a road, if it is not reasonably practicable to provide that means of access otherwise than by the exercise of powers under this Article.

(3) Where the Department in exercise of the power conferred on it by paragraph (1) desires to acquire any land otherwise than by agreement, the Department may make an order (in this Article referred to as a “vesting order”) vesting the land in the Department.

(4) Schedule 6 to the Local Government Act (Northern Ireland) 1972(a) shall, subject to the modifications specified in Schedule 4, apply for the purposes of the acquisition of land by means of a vesting order made under this Article in the same manner as it applies to the acquisition of land by means of a vesting order made under that Act.

(5) Schedule 5 sets out Schedule 6 to the Local Government Act (Northern Ireland) 1972 as it has effect in accordance with paragraph (4) and Schedule 4.

(6) The power to make a vesting order in respect of land—

(a) which is the property of any public body which has power under any transferred provision to acquire land compulsorily; or

(b) which is declared by or under any transferred provision to be inalienable; shall not, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal for making the order has been approved by a resolution of the Northern Ireland Assembly.

(7) In paragraph (6) “public body” has the same meaning as in section 148 of the Local Government Act (Northern Ireland) 1972.

(8) Section 5 of the Stormont Regulation and Government Property Act (Northern Ireland) 1933(b) shall not affect the disposal of any land acquired under this Article.

PART VIII

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

Information as to ownership of land

54.—(1) The Department may, for the purpose of enabling it to carry out any of its functions under this Order, by notice in writing require the occupier of any land and any person who, either directly or indirectly, receives rent in respect of any land, to state in writing the nature of his own interest therein

(a) 1972 c. 9 (N.I.).

(b) 1933 c. 6 (N.I.).

and the name and address of any other person known to him as having an interest therein, whether as freeholder, mortgagee, lessee or otherwise.

(2) Any person required to give information in pursuance of this Article who without reasonable excuse fails to give, or knowingly mis-states, that information shall be liable on summary conviction to a fine not exceeding £200.

Power to enter on land

55.—(1) Subject to this Article, a person authorised in that behalf by the Department shall, on producing if so required some duly authenticated document showing his authority, have a right to enter on any land at all reasonable hours for the purpose of—

- (a) surveying land or boring or carrying out other works in order to ascertain the suitability of the land for the execution of works or whether land ought to be acquired by the Department under this Order;
- (b) inspecting, repairing, altering, renewing or removing any works executed under this Order in or on the land;
- (c) ascertaining whether there is or has been on or in connection with the land any contravention of this Order;
- (d) ascertaining whether or not circumstances exist which would authorise the Department to take any action or execute any works under this Order;
- (e) taking any action, or executing any works authorised or required by this Order to be taken or executed by the Department.

(2) Except in a case of emergency, admission to land for the purpose of executing work thereon shall not be demanded under paragraph (1) unless at least 7 days' notice of the intended entry has been given to the occupier.

(3) Where notice of intended entry for a particular purpose has been given as respects the first occasion on which the right of entry is exercised, no further notice shall be required before entering on the land on a subsequent occasion in connection with that purpose.

(4) If it is shown to the satisfaction of a justice of the peace on a sworn complaint in writing—

- (a) that admission to the land which any person is entitled to enter by virtue of this Article, has been refused to that person, or that refusal is apprehended, or that the land is unoccupied, or the occupier is temporarily absent, or that the case is one of urgency; and
- (b) that there are reasonable grounds for entry to the land for any purpose for which entry is required,

the justice may by warrant under his hand authorise that person to enter on the land if need be by force.

(5) Any person entitled to enter on any land by virtue of a right of entry or of a warrant issued under this Article—

- (a) may take with him such other persons and such equipment as may be necessary; and
- (b) on leaving any unoccupied land which he has entered by virtue of such a warrant shall leave it as effectually secured against trespassers as he found it.

(6) Every warrant granted under this Article shall continue in force until the purpose for which entry is necessary has been satisfied.

(7) Any person who wilfully obstructs any person upon whom a right of entry has been conferred by this Article or by a warrant issued thereunder shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(8) Where work has been carried out on land in pursuance of this Article, the Department shall reinstate the land as soon as possible.

(9) In determining whether an hour is a reasonable one for the purposes of paragraph (1), regard shall be had to whether there is an emergency or not.

Entry and construction of works on land

56.—(1) Any person authorised in that behalf by the Department may, for the purpose of executing any temporary works which are necessarily incidental to the construction or improvement of a road, enter on any land adjoining the road, and execute those works after giving reasonable notice in writing to the owner or occupier of the land.

(2) Where the Department is about to construct or repair a road, any person authorised by it in that behalf may enter on any land adjoining the road and construct a temporary road on it, for use while the work is in progress.

(3) Where—

(a) in the exercise of the powers conferred by paragraph (1) or (2) or Article 55 any damage is caused to land or chattels, any person interested in the land or chattels may recover compensation in respect of the damage from the Department;

(b) in consequence of the exercise of any such powers any person is disturbed in his enjoyment of land or chattels, he may recover compensation in respect of that disturbance from the Department.

(4) Any person who wilfully obstructs a person acting in exercise of his powers under paragraph (1) or (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(5) Any question of disputed compensation under paragraph (3) shall be referred to and determined by the Lands Tribunal.

Obligation to give information as to identity

57. Where the driver of a vehicle is alleged to be guilty of an offence under any provision made by or under this Order, section 153 of the Road Traffic Act (Northern Ireland) 1970 shall apply in the same manner as it applies to offences under that Act.

Inquiries

58.—(1) The Department—

(a) shall cause to be held any such inquiry as is directed by this Order; or
(b) may cause an inquiry to be held in relation to the exercise of any of its functions under this Order.

(2) For the purposes of paragraph (1), Schedule 8 to the Health and Personal Social Services (Northern Ireland) Order 1972 (a) (which applies in relation to inquiries by virtue of section 23 of the Interpretation Act (Northern Ireland))

(a) S.I. 1972/1265 (N.I. 14).

1954) shall have effect as if the words "or may, if the Department so determines, be wholly or partly defrayed by the Department" were added at the end of the end of paragraph 6 of that Schedule.

Arbitration

59. Subject to the provisions of this Order, the Arbitration Act (Northern Ireland) 1937 shall, in relation to arbitrations under this Order, have effect as if the parties had entered into an arbitration agreement within the meaning of that Act providing for reference to a single arbitrator.

Consultation with district councils

60.—(1) The Department shall, where it appears necessary or desirable to do so and in any case at least once in each year, consult each district council with respect to proposals of the Department to exercise its functions under this Order in the district of that council.

(2) A district council may make representations to the Department about the exercise by the Department of its functions under this Order in the district of that council and the Department shall pay due regard to any such representations.

Financial provision

61.—(1) Any expenses incurred by the Department under this Order shall be defrayed either out of moneys appropriated for the purposes of defraying such expenses or, if the Department of Finance so directs in relation to expenses for capital purposes, by means of sums charged on and issued out of the Consolidated Fund.

(2) The Department of Finance may borrow moneys for the purpose of issues out of the Consolidated Fund under paragraph (1).

(3) Any moneys borrowed under paragraph (2) shall be repaid within any period or periods not exceeding 25 years from the date of borrowing, and provision for such payment may be made out of moneys appropriated for that purpose.

(4) The aggregate of the sums charged on and issued out of the Consolidated Fund under paragraph (1) or under section 24(1) of the Special Roads Act (Northern Ireland) 1963 shall not exceed £420,000,000.

Recovery of expenses

62. Where any provision of this Order enables the Department to recover expenses which it has incurred, the Department may recover those expenses summarily or in any court of competent jurisdiction as a civil debt due to it.

Orders and regulations

63.—(1) Schedule 6 shall have effect with respect to the making of orders under any of the following Articles, namely—

- (a) Article 4(1) (construction of bridges and tunnels in relation to navigable waters);
- (b) Article 5(1) (diversion of navigable watercourses);
- (c) Article 6 (extinguishment of certain public rights over navigable waters and foreshore);
- (d) Article 13(1) (trunk roads);
- (e) Article 14(1) (designation of special roads);

- (f) Article 16(1) (restriction of access, etc. in connection with special roads);
- (g) Article 40(1) (abandonment and stopping-up of roads).

(2) Proceedings under Schedule 6 may be taken concurrently (so far as practicable) with proceedings required to be taken under Article 53 and Schedule 4 (procedure for making vesting orders); so however that where the Department wishes to acquire land compulsorily in connection with a special road or proposed special road, an order vesting the land in the Department shall not be made until the road has been designated as a special road in accordance with Article 14.

- (3) An order made under any of the Articles set out in paragraph (1)—
 - (a) shall, together with such observations of the Department upon objections made to the proposed order and not withdrawn and such other observations as the Department considers appropriate, be laid before the Northern Ireland Assembly; and
 - (b) shall be subject to negative resolution.
- (4) Regulations made under this Order shall be subject to negative resolution.

Saving provisions, consequential amendments and repeals

64.—(1) The saving provisions and consequential amendments set out in Schedules 7 and 8 shall have effect.

(2) The statutory provisions set out in Schedule 9 are hereby repealed to the extent shown in column 3 of that Schedule.

(3) Any transferred local provision pertaining to the Department's functions in relation to roads is hereby repealed.

(4) In the Schedule to the Local Government (Modifications and Repeals) Order (Northern Ireland) 1973 (a), the entries relating to the statutory provisions mentioned in Schedule 9 are hereby revoked to the extent that they modify those provisions.

N. E. Leigh,
Clerk of the Privy Council.

SCHEDULES

SCHEDULE 1

Article 18(2) and (3).

CLASSES OF TRAFFIC FOR PURPOSES OF SPECIAL ROADS

- Class 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 section 26 of the Road Traffic Act (Northern Ireland) 1970 (in this Schedule referred to as "the Act of 1970"), 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(1) of Part I of Schedule 3 to the Vehicles (Excise) Act (Northern Ireland) 1972 (a).
- Class II* 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 section 27 (3) of the Act of 1970.
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 section 27(3) of the Act of 1970.
- Class III* 5. Motor vehicles controlled by pedestrians.
- Class IV* 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.
- Class V* 7. Vehicles drawn by animals.
- Class VI* 8. Vehicles (other than pedal-cycles, perambulators, push-chairs and other forms of baby carriages) drawn or propelled by pedestrians.
- Class VII* 9. Pedal-cycles.
- Class VIII* 10. Animals ridden, led or driven.
- Class IX* 11. Pedestrians, perambulators, push-chairs and other forms of baby carriages and dogs held on a lead.
- Class X* 12. Motor-cycles whereof the cylinder capacity of the engine is less than 50 cubic centimetres.
- Class XI* 13. Invalid carriages.

(a) 1972 c. 10 (N.I.).

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 section 27(3) of the Act of 1970;

“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 Act of 1970; and

any expression, other than “invalid carriages”, defined for the purposes of the Act of 1970 has the same meaning as in that Act.

Article 30.

SCHEDULE 2

PREVENTION OF OBSTRUCTION TO VIEW, ETC.

1.—(1) Notice under Article 30 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 buildings 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, 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, tree or hedge to be erected or planted on the land.

(2) There shall be annexed to any notice served under Article 30 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 30 shall be registered pursuant to Part X of the Land Registration Act (Northern Ireland) 1970(a) 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.

3.—(1) If any person upon whom a notice has been served under Article 30 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 ten 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 the Arbitration Act (Northern Ireland) 1937.

(a) 1970 c. 18 (N.I.).

(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.

4. Any person upon whom a notice is served under Article 30 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 30 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 any fine under paragraph 6.

6. Subject to the provisions of this Schedule, if any person upon whom a notice has been served under Article 30 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 £200.

7.—(1) Any person upon whom a notice is served under Article 30 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 30, 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.

8. Nothing in Article 30 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.

9. Article 30 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.

SCHEDULE 3

Article 41 (1).

PROCEDURE FOR MAKING ORDERS UNDER ARTICLE 41 (1)

1. Where the Department proposes to make an order under Article 41(1), it shall publish in at least one newspaper circulating in the area in which the premises are situated a notice—

(a) stating the general effect of the proposed order;

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

Article 53(4).

SCHEDULE 4

MODIFICATIONS OF SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972 FOR THE PURPOSES OF ARTICLE 53 (4)

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 a reference 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” there shall be substituted the words “made by the Department”.
9. In paragraph 11(3) omit the words “in the prescribed form”.
10. 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”.
11. In paragraph 14 (1) omit the words “in the prescribed form”.
12. In paragraph 15 (1) for the words “in the prescribed form” substitute the words “in such form as may be approved by the Department”.
13. Omit paragraph 19.
14. Omit paragraph 20(2).

SCHEDULE 5

Article 53 (5).

SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972 AS MODIFIED FOR THE PURPOSES OF THIS ORDER

ACQUISITION OF LAND BY VESTING ORDER

Preliminary procedure

1. (*Not applicable*).
2. Where the Department proposes to acquire land otherwise than by agreement, notice of its intention to do so—
 - (a) shall be published by the Department on at least two occasions in the locality in which the land is situated;
 - (b) shall be served by the Department on every person appearing to the Department to have an estate in the land;
 - (c) shall also be served by the Department on such government departments and public bodies as the Department considers fit; and
 such notice shall state the time within which objections to the proposal may be made to the Department.

Making of vesting order

3.—(1) After the expiration of one month from the date of the last publication of the notice mentioned in paragraph 2 (a), the Department—

(a) after considering all representations which have been made to the Department by any interested party; and

(b) after causing a local inquiry to be held (if it appears to the Department to be necessary to do so);

may,—

(i) make a vesting order, which may contain any modifications of the Department's proposal that the Department thinks proper, vesting in the Department all or any part of the land for an estate in fee simple or for such other estate as may be specified in the vesting order; or

(ii) decide not to make the order.

(2) If a local inquiry is held as aforesaid, any person interested in the land, and such other persons as the person holding the inquiry may allow, shall be permitted to appear in person or by a representative, and to be heard at the inquiry, and, before making a vesting order, the Department shall consider the report of the person who held the inquiry.

4. A vesting order shall contain such provisions as the Department thinks necessary or expedient for carrying it into effect.

Validity and operation of vesting orders

5.—(1) The following provisions of this paragraph shall have effect with respect to the validity of a vesting order and the date on which such an order is to come into operation—

(a) as soon as may be after a vesting order has been made the Department shall publish a notice, stating that the vesting order has been made and naming a place where a copy of the vesting order and of any map or plan referred to in it may be seen at all reasonable hours, and shall serve a like notice on every person who has given notice to the Department of his objection to the making of the vesting order;

(b) if any person aggrieved by a vesting order desires to question its validity on the ground that it is not within the powers conferred by the Roads (Northern Ireland) Order 1980 or that the procedure specified in this Schedule has not been complied with, he may, within one month from the publication of the notice of the making of the vesting order, make an application for the purpose to the High Court in accordance with rules of court, and on such an application the court—

(i) may by interim order suspend the operation of the vesting order, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings;

(ii) if satisfied upon the hearing of the application that the vesting order is not within the powers conferred by the Roads (Northern Ireland) Order 1980, or that the interests of the applicant have been substantially prejudiced by any requirement of this Schedule not having been complied with, may quash the vesting order either generally or in so far as it affects any property of the applicant;

(iii) if not so satisfied, shall dismiss the application;

(c) subject to head (b), a vesting order or the making of such an order shall not be questioned in any legal proceedings whatsoever, and a vesting order shall become operative at the expiration of a period of one month from the date on which the notice of the making thereof is published in accordance with the provisions of head (a);

(d) as soon as may be after a vesting order has become operative the Department shall serve on every person appearing to it to have an estate in the land to which the vesting order relates either a copy of the vesting order or a notice stating that the vesting order has become operative and naming a place where a copy

of the vesting order and of any map or plan referred to therein may be seen at all reasonable hours and may be obtained free of charge upon written request made by or on behalf of any person having an estate in the land.

(2) Notice of a vesting order that has become operative shall be served by the Department on such government departments and public bodies as the Department considers fit.

6.—(1) Subject to sub-paragraph (3), a vesting order shall operate, without further assurance, to vest in the Department, as from the date on which the vesting order becomes operative (in this Schedule referred to as “the date of vesting”), an estate in fee simple or such other estate (if any) in, to or over the land to which it relates as is therein specified, freed and discharged from all claims or estates whatsoever (except as is specified in the order).

(2) To the extent to which compensation is payable in accordance with the provisions of this Schedule, as from the date of vesting the rights and claims of all persons in respect of any land acquired by the vesting order shall be transferred and attached to the Consolidated Fund (in this Schedule referred to as “the compensation fund”), and shall be discharged by payments made by the Department.

(3) Where a vesting order relates to registered land, the Department, before lodging the vesting order with the Registrar of Titles, shall endorse upon the vesting order the date on which it would have become operative were it not for the provisions of this sub-paragraph, and in relation to such land the date of vesting shall, notwithstanding anything in sub-paragraph (1), be the date so endorsed or the date on which the order is so lodged, whichever is the later, and that sub-paragraph shall have effect accordingly.

7. A vesting order, or the title created by such an order (if it relates to registered land), shall forthwith upon lodgment of the order, be registered in the Registry of Deeds, or as the case requires, the Land Registry.

8. Where a vesting order relates to any land forming part of a holding which is subject to the future payment of an annuity under the Land Purchase Acts, it shall not be necessary for any consent or authority for the sub-division of the holding to be given under any provision of those Acts, other than the consent of the Department of Finance to any apportionment of the annuity.

9. On and after the date of vesting the Department or any person authorised by the Department may enter upon and use the land to which the vesting order relates.

10.—(1) Section 92 of the Lands Clauses Consolidation Act 1845 (a) shall not have effect in relation to any acquisition of land by means of a vesting order.

(2) Where a vesting order applies to part only of a house, building or factory, a person having an estate in the whole thereof may, within six weeks from the date on which the order becomes operative, serve a notice on the Department, requiring the Department to acquire the remainder thereof.

(3) Where a notice is served on the Department under sub-paragraph (2) the Department shall acquire the remainder of the house, building or factory unless 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.

(4) Where the Department acquires the remainder of a house, building or factory in pursuance of sub-paragraph (3), any question as to the amount payable in respect thereof shall be determined as if that remainder had been acquired by means of a vesting order.

Reference of disputed cases to the Lands Tribunal

11.—(1) As soon as a vesting order has become operative, any question of disputed compensation arising between the Department and any person who—

- (a) has an estate in any land to which the vesting order relates or would have such an estate if the order had not become operative, or
- (b) has an estate in any land injuriously affected by the works proposed to be carried out by the Department,

shall be referred to and determined by the Lands Tribunal.

(2) Where the person entitled to compensation under this Schedule is not known or cannot be found or neglects or refuses to produce his title or to claim the compensation, or where a person claiming compensation is not absolutely entitled to the compensation or is under any disability the Department may refer to the Lands Tribunal any question in connection with the compensation and that question shall be deemed to be a question of disputed compensation for the purposes of this Schedule.

(3) Where a vesting order relates to land forming part of a holding which is subject to the payment of an annuity under the Land Purchase Acts, the Department shall give to the Department of Finance notice of any agreement for the payment of compensation by the Department to any person who has an estate in the land, and if the Department of Finance notifies the Department of its intention to bring before the Lands Tribunal any question with respect to the apportionment or redemption of the annuity, that question shall be deemed to be a dispute between the Department of Finance and any person claiming compensation in relation to the lands and the provisions of this Schedule shall apply as they apply to a question of disputed compensation.

12.—(1) When any question of disputed compensation arises, the Department shall as soon as practicable thereafter cause to be made out maps and schedules of any lands to which the vesting order relates and of any other lands which, it is claimed, may be injuriously affected by the works proposed to be carried out by the Department (in this Schedule referred to as “the scheduled lands”), together with the names, so far as they can be reasonably ascertained, of all persons who immediately prior to the making of the vesting order were interested in the lands as owners or reputed owners, lessees or reputed lessees, or occupiers.

(2) The Department shall deliver to the appropriate officer of the Lands Tribunal one copy of each of the maps and schedules certified by the Department as correct, and publish a notice stating that such documents have been delivered and the times and place at which copies of them may be inspected by any person desiring to inspect them.

Special powers of the Lands Tribunal

13.—(1) The Lands Tribunal shall have the same power of apportioning any rent-service, rent-charge, chief or other rent, payment or incumbrance as two justices have under the Lands Clauses Consolidation Act 1845.

(2) Subject to the provisions of paragraph 16, the amount of compensation to be paid in pursuance of section 124 of the Lands Clauses Consolidation Act 1845 in respect of any estate in any of the scheduled lands which the Department has through mistake or inadvertence failed or omitted duly to make compensation for, shall be awarded by the Lands Tribunal and paid in like manner, as nearly as may be, as the same would have been awarded and paid if the claim of such estate had been delivered to the Lands Tribunal before the day fixed for the delivery of statements of claim.

(3) In determining the amount of any disputed compensation, the Lands Tribunal shall have regard to the extent to which any remaining and contiguous land, belonging to the same proprietor, may be benefited by any proposed work or any proposed use of land for which the land to which the vesting order relates is acquired by the Department.

(4) In determining the amount of any disputed compensation, the Lands Tribunal shall not award any sum of money for or in respect of any improvement or alteration

made, or building erected, after the date of the first publication by the Department of the notice mentioned in paragraph 2 if, in the opinion of the Lands Tribunal, the improvement, alteration, or building in respect of which the claim is made was made or erected with a view to obtaining or increasing compensation; nor, in respect of any estate created after the said date in any land to which the vesting order relates, shall any sum of money be awarded so as to increase the total amount of compensation which would otherwise have been required to be paid in respect of the acquisition of the land.

Satisfaction of claims

14.—(1) The Department, on paying to any person any compensation (whether the amount has been settled by agreement or determined by the Lands Tribunal), shall obtain from that person a receipt, which shall be prepared by, and executed at the cost of, the Department, and the receipt shall operate to release the compensation fund from all claims by the person giving it and all parties claiming through or under him.

(2) The Department shall pay the costs reasonably incurred by any person claiming compensation, to whom compensation is found due, of furnishing any statement, abstract or other evidence of title required by the Department to be furnished by him.

15.—(1) Where the compensation payable (whether the amount thereof has been settled by agreement or determined by the Lands Tribunal) to any person does not exceed the sum of £100, and the claimant makes a statutory declaration in such form as may be approved by the Department stating whether he claims as absolute or as limited owner, and gives prima facie evidence which satisfies the Department that for not less than six years immediately preceding he, or his immediate predecessor in title, has been personally or by an agent in receipt of the rents or profits, or in actual occupation, of the land in respect of which compensation is payable, the Department may pay to the person claiming as absolute owner the compensation payable for the estate in respect of which he claims, and, where a person claims as limited owner of any estate, the Department may pay the compensation payable for that estate to the trustees of the settlement under which the limited owner claims.

(2) Where any compensation not exceeding the sum of £100 is payable in respect of an estate which is subject to any mortgage or charge (not being a charge consisting of an annuity under the Land Purchase Acts or a charge in respect of any sums repayable in respect of a loan made by any government department), the compensation may be paid to the person entitled to the mortgage or charge, or, if there is more than one such mortgage or charge, then the person entitled to the mortgage or charge which is first in priority, and the amount so paid shall be received in reduction of the principal sum for the time being owing in respect of the mortgage or charge, notwithstanding any direction, proviso or covenant to the contrary contained in any instrument; and where the compensation is paid to a mortgagee or chargeant, the receipt given by the mortgagee or chargeant shall release the compensation fund from all claims by him and any subsequent mortgagee or chargeant, and also from all claims by the person creating the mortgage or charge and all persons claiming through or under that person.

(3) A memorandum of the amount paid under sub-paragraph (2) shall, when practicable, be endorsed on the instrument creating the mortgage or charge, and shall be signed by the person receiving the compensation, and a copy of the memorandum shall be furnished by the Department at its expense to all persons appearing to the Department to be entitled to any estate in the land subject to the mortgage or charge.

16. Any person claiming to be entitled to any money paid to another person pursuant to the foregoing provisions of this Schedule may, within six years after the payment has been made, on giving such notice as may be required by rules of court or, as the case requires, county court rules, apply for relief to the High Court, where the amount exceeds £1,000, or to the county court within the jurisdiction of which the land in respect of which the money has been paid is situated, where the amount claimed does not exceed £1,000; and the court may either dismiss the application, or give judgment or make a decree against the Department for the amount found due in respect of the claim, and any sum so awarded shall be a debt due to the Department by the person to whom the money was paid by it, arising at the date of the judgment or decree.

17.—(1) Where the amount of compensation has been determined but for some reason it is not possible for the Department to obtain a good discharge therefor,—

(a) if the total amount of the compensation does not exceed £1,000, the Department shall pay the money into the county court and that court shall have with respect thereto all the jurisdiction exercisable by the High Court under the Lands Clauses Acts;

(b) if the total amount of the compensation exceeds £1,000, the amount payable by the Department shall be paid, applied and dealt with in accordance with the provisions of the Lands Clauses Consolidation Act 1845 with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title, and those provisions shall have effect accordingly.

(2) Money paid into the county court or, as the case may be, the High Court under sub-paragraph (1) shall, subject to county court rules or rules of court, be dealt with according to the orders of the court.

(3) The payment of the compensation in the manner provided by sub-paragraph (1) shall operate to discharge the compensation fund from all claims and interests in respect of which the compensation is payable.

18.—(1) The Department shall pay interest upon the compensation money from the date of the vesting of the land in respect of which the compensation is payable until the time of the payment of the money and interest to the party entitled thereto, or, where such compensation is paid into court, then until the sum with such interest is paid into court accordingly.

(2) The rate of interest payable under this paragraph shall be such rate as is determined by order made by the Department of Finance.

19. (*Not applicable.*)

Interpretation

20.—(1) For the purposes of this Schedule the interest of a grantee under a fee farm grant shall be deemed to be a lesser estate than a fee simple.

(2) (*Not applicable.*)

Article 63 (1).

SCHEDULE 6

PROCEDURE FOR MAKING ORDERS UNDER ARTICLES 4 (1), 5 (1), 6, 13 (1), 14 (1), 16 (1) and 40 (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 or navigable watercourse or proposed road, bridge or tunnel to which the order relates is situated a notice—

(a) stating the general effect of the proposed order;

(b) specifying a place in that area where a copy of a draft of the order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of not less than thirty days from the date of the last publication of the notice; 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 or navigable watercourse, to which the draft of the order relates, is situated;

(b) in relation to a draft of 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.

(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 made 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 (a)

(iv) the Fisheries Conservancy Board,

(v) the Foyle Fisheries Commission,

(vi) a pilotage authority within the meaning of the Pilotage Act 1913 (b);

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

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;

(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, proposed road, bridge, tunnel, navigable watercourse or foreshore 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 order in one or more than one newspaper circulating in the area to which the order relates.

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

(b) 1913 c. 31.

Article 64 (1).

SCHEDULE 8

CONSEQUENTIAL AMENDMENTS

1. The following subsection shall be added at the end of section 89 of the Road Traffic Act (Northern Ireland) 1970 (provision of parking places)—

“(14) For the purposes of the Telegraph Acts, where a parking place provided under this section, or under section 26 of the Roads Act (Northern Ireland) 1948, as extended by section 11 of the Road Traffic Act (Northern Ireland) 1964, is situate below ground, the parking place shall be deemed to be a subway within the meaning of section 6 of the Telegraph Act 1878.”.

2. In the following statutory provisions, namely—

(a) the Historic Monuments Act (Northern Ireland) 1971 (a),

(b) the Electricity Supply (Northern Ireland) Order 1972 (b), and

(c) the Land Acquisition and Compensation (Northern Ireland) Order 1973 (c),

for any reference to a road authority there shall be substituted a reference to the Department of the Environment.

3. In the statutory provisions specified in column 1 of the following Table, for the words or provision in column 2 there shall be substituted the words in column 3.

Table of textual amendments

Section, Article or Schedule	Words or provision replaced	Replacement
Section 26 (5).	THE MILITARY LANDS ACT 1892 c. 43 From “after presentment” to the end.	“under Article 40 of the Roads (Northern Ireland) Order 1980 as if the conditions set out in paragraph (1) of that Article were satisfied.”.
Section 28 (2) (b) (as applied to Northern Ireland by section 28 (8)).	THE CIVIL AVIATION ACT 1949 c. 67 From “maintainable at the cost” to the end.	“a public road within the meaning of the Roads (Northern Ireland) Order 1980.”.
Section 28 (6) (as applied to Northern Ireland by section 28 (8)).	“Ministry of Commerce for Northern Ireland under subsection (3) of section thirty-four of the Roads Act (Northern Ireland) 1948”.	“Department of the Environment for Northern Ireland under Article 53 (3) of the Roads (Northern Ireland) Order 1980”.
Section 19 (1).	THE INLAND NAVIGATION ACT (NORTHERN IRELAND) 1954 c. 1 The definition of “road authority.”	“road authority” means the Department of the Environment;’.
Third Schedule, paragraph 1.	THE LAND POWERS (DEFENCE) ACT 1958 c. 30 “section 17 of the Roads Act (Northern Ireland) 1948”.	“Article 40 of the Roads (Northern Ireland) Order 1980”.

(a) 1971 c. 17 (N.I.).

(b) S.I. 1972/1072 (N.I. 9).

(c) S.I. 1973/1896 (N.I. 21).

Section, Article or Schedule	Words or provision replaced	Replacement
paragraph 2.	"section 17".	"Article 40".
paragraph 5.	"section 34 of the said Act of 1948".	"Article 53 of the Roads (Northern Ireland) Order 1980".
Section 62.	THE TRANSPORT ACT (NORTHERN IRELAND) 1967 c. 37 Subsection (1).	"(1) Where the Department, in connection with the performance of its functions under the Roads (Northern Ireland) Order 1980, acquires from the Holding Company or the railway undertaking lands used or maintained by the railway undertaking, the powers of the Department to acquire land by agreement or compulsorily shall include power to acquire land for the purpose of providing substituted sites or facilities for the Holding Company or the railway undertaking, and, accordingly, the powers conferred by Article 53 of and Schedule 4 to the Roads (Northern Ireland) Order 1980 shall be exercisable as if the last-mentioned land were required in the exercise of functions under that Order."
Schedule 4 paragraph 93 (1).	THE POST OFFICE ACT 1969 c. 48 "(viii) The Roads Act (Northern Ireland) 1948".	"(viii) The Roads (Northern Ireland) Order 1980".
Section 26 (1) (h)	THE ROAD TRAFFIC ACT (NORTHERN IRELAND) 1970 c. 2 "Special Roads Act (Northern Ireland) 1963".	"Roads (Northern Ireland) Order 1980".
Section 185 (3)	"Subsections (9) and (10)".	"subsection (10)".
Section 190 (1).	The definition of "trunk road".	' "trunk road" has the same meaning as in Article 2 (2) of the Roads (Northern Ireland) Order 1980.'
Section 16 (4).	THE HISTORIC MONUMENTS ACT (NORTHERN IRELAND) 1971 c. 17 Paragraph (b).	'(b) "road" has the same meaning as in the Roads (Northern Ireland) Order 1980.'
Section 1 (1) (f).	THE PLANNING AND LAND COMPENSATION ACT (NORTHERN IRELAND) 1971 c. 23 From "indicated in" to "of that Act" (second time).	"indicated in a draft order referred to in a notice published in accordance with

Section, Article or Schedule	Words or provision replaced	Replacement
Section 1 (1) (f).	From "indicated in" to "of that Act" (second time).— <i>cont.</i>	paragraph 1 of Schedule 6 to the Roads (Northern Ireland) Order 1980 or an order made under Article 13 or 14 of that Order".
THE PLANNING (NORTHERN IRELAND) ORDER 1972 (S.I. 1972/1634 (N.I. 17))		
Article 2 (2).	The definition of "road".	"road" has the same meaning as in the Roads (Northern Ireland) Order 1980, but includes land in respect of which street planning functions, as defined in the Private Streets (Northern Ireland) Order 1980, have been exercised under Article 3 (1) of that Order;".
Article 9.	Paragraph (a).	"(a) makes an order under Article 13 or 14 of the Roads (Northern Ireland) Order 1980;".
Article 77 (4).	"section 18 of the Roads Act (Northern Ireland) 1948".	"planning permission or Article 42 of the Roads (Northern Ireland) Order 1980".
THE LAND ACQUISITION AND COMPENSATION (NORTHERN IRELAND) ORDER 1973 (S.I. 1973/1896 (N.I. 21))		
Article 2 (2).	The definition of "road".	"road" has the same meaning as in the Roads (Northern Ireland) Order 1980;".
	The definition of "road authority".	"road authority" means the the Department of the Environment;".
Article 2 (3).	"Roads Act (Northern Ireland) 1948".	"Roads (Northern Ireland) Order 1980".
Article 24 (4).	"Section 34 of, and Schedule 5 to, the Roads Act (Northern Ireland) 1948".	"Article 53 of, and Schedule 4 to, the Roads (Northern Ireland) Order 1980".
Article 24 (5).	"paragraph 2 (1) or (2) of Schedule 5 to the Roads Act (Northern Ireland) 1948".	"paragraph 2 of Schedule 6 to the Local Government Act (Northern Ireland) 1972 as applied by Article 53 of and Schedule 4 to the Roads (Northern Ireland) Order 1980".
Article 25.	Paragraph (1).	"(1) The Department of the Environment may carry out— (a) on land acquired by it under Article 24;

Section, Article or Schedule	Words or provision replaced	Replacement
Article 25.	Paragraph (1).— <i>cont.</i>	(b) on any other land belonging to it; (c) on any road maintainable by it, works for mitigating any adverse effect which the construction, improvement, alteration, existence or use of a road has, or will have, on the surroundings of the road.”
Schedule 1, Part III.	“Section 18 of the Roads (Northern Ireland) Act 1948.”	“Article 43 of the Roads (Northern Ireland) Order 1980.”
Schedule 3.	Paragraph 7.	“7. Orders under Article 12, 13, 40 or 41 of the Roads (Northern Ireland) Order 1980”.

Article 64 (2).

SCHEDULE 9

REPEALS

Chapter	Title	Extent of Repeal
1836 c. 116.	The Grand Jury (Ireland) Act 1836.	Sections 50, 51, 52, 54, 55, 56 and 162.
1837 c. 34.	The Towns Improvement Clauses Act 1847.	Sections 47 to 63 and 66 to 74 including those sections as applied by, or incorporated in, any other Act.
1851 c. 92.	The Summary Jurisdiction (Ireland) Act 1851.	Section 9 except paragraph 7, section 10, in section 13 paragraph 3 and in section 14 paragraph 3.
1853 c. 136.	The Grand Jury (Ireland) Act 1853.	Section 17.
1863 c. 112.	The Telegraph Act 1863.	Section 15.
1872 c. 85.	The Annual Turnpike Acts Continuance Act 1872.	The whole Act, so far as unrepealed.
1878 c. 52.	The Public Health (Ireland) Act, 1878.	Sections 38, 39 and 40. In section 80 the paragraph inserted by Article 3 of, and the Schedule to, the Local Government (Modification and Repeals) Order (Northern Ireland) 1973.

Chapter	Title	Extent of Repeal
1893 c. 32.	The Barbed Wire Act 1893.	The whole Act.
1898 c. 37.	The Local Government (Ireland) Act 1898.	Section 12 and in section 82 (2) the words "old road or" and the words "road or" (twice).
1907 c. 53.	The Public Health Acts (Amendment) Act 1907.	Sections 28 and 29.
1910 c. 7.	The Development and Road Improvement Funds Act 1910.	The whole Act.
1919 c. 50.	The Ministry of Transport Act 1919.	The whole Act.
1920 c. 72.	The Roads Act 1920.	Section 4 and the First Schedule.
1927 c. 19.	The Quarries Act (Northern Ireland) 1927.	Section 29 (4).
1928 c. 10.	The Roads Improvement Act (Northern Ireland) 1928.	Sections 4 (1) to (8), 9 (1) to (3), 10 to 13, 16, 18 and 19. In section 20, the following definitions — "wall", "fence", "hedge", "building", "new building" and "daily penalty".
1929 c. 9.	The Street Trading (Regulation) Act (Northern Ireland) 1929.	Section 14.
1934 c. 22.	The Local Government Act (Northern Ireland) 1934.	Section 21 (1).
1937 c. 14.	The Roads Act (Northern Ireland) 1937.	Sections 5 to 7 and 9.
1948 c. 28.	The Roads Act (Northern Ireland) 1948.	The whole Act.
1955 c. 27.	The Road Traffic Act (Northern Ireland) 1955.	Section 31. In section 51, the words "or the Roads Act (Northern Ireland), 1948" and "roads or". Section 63. In section 75 (1), the definition of "trunk road". Schedule 1, so far as unrepealed.
1958 c. 9.	The Summary Jurisdiction and Criminal Justice Act (Northern Ireland) 1958.	Section 35 (6).
1963 c. 12.	The Special Roads Act (Northern Ireland) 1963.	The whole Act.

Chapter	Title	Extent of Repeal
1964 c. 20.	The Road Traffic Act (Northern Ireland) 1964.	Sections 11 (5) and 35 (1).
1964 c. 21.	The Magistrates' Courts Act (Northern Ireland) 1964.	In Schedule 2 Part II, paragraph 3 (a) and in paragraph 3 (c) the words "paragraph 3".
1964 c. 29	The Lands Tribunal and Compensation Act (Northern Ireland) 1964.	Section 6 (3). In Schedule 1— (a) in Part I the modifications relating to the Roads Improvement Act (Northern Ireland) 1928, the Roads Act (Northern Ireland) 1948 and the Special Roads Act (Northern Ireland) 1963; (b) Part II.
1966 c. 11.	The Roads (Liability of Road Authorities for Neglect) Act (Northern Ireland) 1966.	The whole Act.
1967 c. 29.	The Increase of Fines Act (Northern Ireland) 1967.	In Part I of the Schedule, any entry relating to any statutory provision repealed by this Order.
1967 c. 37.	The Transport Act (Northern Ireland) 1967.	Section 61 (2) (a) and (b).
1968 c. 30.	The Local Government and Roads Act (Northern Ireland) 1968.	Sections 3 to 5, 7 (1), 8 (1) to (5), 9 to 11, 13, 14 (2) and (3), 16, 17 and 18 (3).
1969 c. 48.	The Post Office Act 1969.	In Schedule 4—in paragraph 7 (1) (a) the words "15 (removal of works in connection with alterations to streets)"; paragraphs 44 and 75; and in paragraph 94 the words "in the Roads Improvement Act (Northern Ireland) 1928 or".
1970 c. 2.	The Road Traffic Act (Northern Ireland) 1970.	Sections 23 (7), 43 (9), 44 (8) and 107 (3).
1971 c. 17.	The Historic Monuments Act (Northern Ireland) 1971.	In section 16 (1) (c), the words "with the approval of the road authority".
1972 c. 10.	The Vehicles (Excise) Act (Northern Ireland) 1972.	In Schedule 8, the amendment to the Special Roads Act (Northern Ireland) 1963.
S.I. 1972/1072 (N.I. 9).	The Electricity Supply (Northern Ireland) Order 1972.	In Article 2 (2), the definition of "road authority".

Chapter	Title	Extent of Repeal
S.I. 1973/1896 (N.I. 21).	The Land Acquisition and Compensation (Northern Ireland) Order 1973.	Article 24 (7).
S.I. 1975/1040 (N.I. 10).	The Roads (Northern Ireland) Order 1975.	The whole Order.
S.I. 1978/1048 (N.I. 18).	The Planning (Amendment) (Northern Ireland) Order 1978.	Article 9.
S.I. 1978/1051 (N.I. 21).	The Roads and Road Traffic (Northern Ireland) Order 1978.	Articles 3, 4 and 5.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order consolidates with amendments the Roads Act (Northern Ireland) 1948 and related statutory provisions.

The main amendments are as follows. Article 11 provides for the transfer to the Department of existing road bridges over railways. Article 25 empowers the Department to maintain drains which carry surface water away from roads. Under Article 41 the Department may stop-up an access which is likely to endanger or interfere with traffic on a road and Articles 42 and 43 regulate the construction and alteration of certain accesses onto roads. The Department is required by Article 60 to consult with district councils with respect to its proposals for exercising its functions under the Order.

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