STATUTORY RULES OF NORTHERN IRELAND

1998 No. 156

ROADS
STREET WORKS

Street Works (Sharing of Costs of Works) Regulations (Northern Ireland) 1998

Made - - - -	*20th April 1998*
Coming into operation	*1st June 1998*

The Department of the Environment, in exercise of the powers conferred on it by Articles 45(1), (2) and (4) to (6) and 59(2) of the Street Works (Northern Ireland) Order 1995(**1**), and of every other power enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Street Works (Sharing of Costs of Works) Regulations (Northern Ireland) 1998 and shall come into operation on 1st June 1998.

(2) In these regulations—

"allowable costs" shall be construed in accordance with paragraph (3);

"the Code" means the Code of Practice entitled "Measures Necessary Where Apparatus Is Affected By Major Works (Diversionary Works)" and dated 17th April 1998, and approved by the Department on 17th April 1998 as revised and re-issued from time to time;

"the Order" means the Street Works (Northern Ireland) Order 1995; and

"works" means major road works, major bridge works or major transport works.

(3) For the purposes of these regulations "allowable costs" means all the reasonable costs of the measures needed to be taken for the purpose specified in Article 44(1) of the Order except costs incurred—

(a) in preparing the initial set of plans and estimates in relation to those measures (but not in preparing any further plans and estimates which the authority concerned may require); and

(b) in relation to the undertaker's apparatus placed in a street after the undertaker was given notice as mentioned in Article 45(2)(*a*) of the Order.

(**1**) S.I.1995/3210 (N.I. 19); *see* Article 2(2) for the definitions of "the Department" and "prescribed"

Payments in cases where measures are executed by the undertaker

2. Save as provided in regulations 6 and 8, in cases where works are initiated by the authority concerned and an undertaker executes measures which need to be taken in respect of his apparatus because of those works, the authority concerned shall pay to the undertaker a sum equal to the allowable costs incurred by the undertaker in taking those measures, provided that the authority concerned shall pay only 82 per cent of the said allowable costs if the authority concerned pays to the undertaker a sum equal to 75 per cent of the estimate of the said 82 per cent pursuant to paragraph (*a*) of regulation 8.

Payments in cases where measures are executed by the authority concerned

3. Save as provided in regulation 6, in a case where works are initiated by the authority concerned and the authority concerned executes measures which need to be taken in respect of apparatus of an undertaker because of those works, the undertaker shall pay to the authority concerned a sum equal to 18 per cent of the allowable costs incurred by the authority concerned in taking those measures.

4. In a case where works are initiated by the authority concerned and are done by the authority concerned, an undertaker whose apparatus is moved by the authority concerned at the request of the undertaker solely because of a change in the type of road construction (not involving an alteration in the depth of cover to a depth less or, as the case may be, greater than the acceptable depth referred to in Appendix B to the Code) shall be liable to pay to the authority concerned a sum equal to the whole of the allowable costs incurred by the authority concerned in moving the apparatus.

Payments in cases where measures are executed by another person

5. Save as provided in regulation 6, in a case where works are initiated by a person other than the authority concerned in its capacity as such or an undertaker and for the purposes of that person, and because of those works measures need to be taken in respect of apparatus—

(a) if the authority concerned takes those measures the undertaker shall pay to the authority concerned a sum equal to 18 per cent of the allowable costs incurred by the authority concerned in taking those measures;

(b) if the undertaker takes those measures the authority concerned shall pay to the undertaker a sum equal to the allowable costs incurred by the undertaker in taking those measures, provided that the authority concerned shall pay only 82 per cent of the said allowable costs if the authority pays to the undertaker a sum equal to 75 per cent of the estimate of the said 82 per cent pursuant to paragraph (*a*) of regulation 8.

For the purposes of this regulation in calculating the cost of taking measures, there shall be taken into account in favour of the undertaker any sum which is recoverable from the person for whose purposes the works are done, irrespective of whether or not such a sum is actually recovered from that person, or any sum which would have been recoverable if the person for whose purposes the works are done were not the authority concerned.

Costs in respect of major bridge works and certain apparatus placed in the street

6.—(1) In a case where works consist of or include major bridge works an undertaker shall not be liable for costs in respect of the provision of adequate space in the structure of the bridge or of sufficient strength in the bridge to accommodate the undertaker's apparatus in the bridge, but this paragraph shall not apply to the cost of any ducts, pipe bays, hangers or other provision for housing or supporting the apparatus within such space or to the provision of adequate space or adequate strength to accommodate the apparatus of any undertaker installed in the bridge after the execution of such works other than the installation, replacement or modification (not involving enlargement) of apparatus previously installed in the bridge prior to the execution of such works.