STATUTORY INSTRUMENTS

1980 No. 1086 (N.I. 12)

Private Streets (Northern Ireland) Order 1980 [F1]

\- - - - - - *[28th July 1980]*

Annotations:
F1 functions transf. by SR 1999/481

PART I

INTRODUCTORY

Title and commencement

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

(2) *Commencement*

Interpretation

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

[F2](2) In this Order—

"adjoining" includes abutting on;

"building regulations" means regulations made under Article 3(1) of the Building Regulations (Northern Ireland) Order 1972 or under Article 3(1) of the Building Regulations (Northern Ireland) Order 1979 ;

"the Department" means the Department of the Environment;

"fronting" includes adjoining;

"industrial premises" means premises used or designed or suitable for use for the carrying on of any industrial undertaking and includes premises used for purposes ancillary to the carrying on of any such undertaking;

"industrial undertaking" includes any undertaking by which any process for, or incidental to, any of the following purposes is, or is intended to be, carried on—

(a) the making of any article or substance, or part of any article or substance;

(b) the altering, repairing, ornamenting, finishing, cleaning, washing, preserving, packing, canning, adapting for sale, breaking-up or demolition of any article or substance;

(c) without prejudice to paragraph (*b*), the getting, dressing or preparation for sale of minerals or the extraction or preparation for sale of oil or brine,

being a process carried on in the course of a trade or business; and for the purposes of this definition, the expression "article" means an article of any description, including a**[**F3 ship as defined in the Merchant Shipping Act 1995**]**;

"owner" means the person for the time being receiving the rack rent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such land or premises were let at a rack rent;

"paving" includes metalling and flagging and all other methods of making a carriage-way, footway or footpath;

[F2 " the Planning Act " means the Planning Act (Northern Ireland) 2011; **]**

"premises" includes land;

"public body" means a body established by or under any statutory provision;

"public road" means a street which is maintainable at the expense of the Department;

"responsible person" has the meaning assigned to it by Article 36;

"statutory provision" has the meaning assigned to it by section 1(*f*) of the Interpretation Act (Northern Ireland) 1954 ;

"street" includes—

(a) any highway, any public bridge and any road, lane, footpath, square, court, alley or passage, whether a thoroughfare or not;

(b) any part of a street; and

(c) any land which the Department, in exercise of street planning functions, determines shall be regarded as being comprised in a street for the purposes of Part III;

"street planning functions" has the meaning assigned to it by Article 3(2);

"street works" means any works for the sewering, levelling, paving, channelling and making good of a street**[**F4 and includes the provision of proper means for lighting a street**]**;

"transfer" in relation to premises or any estate therein includes any disposal of the premises or estate whether by sale, lease, exchange, gift or otherwise.

(3) For the purposes of this Order, the frontage of a building or proposed building on a street shall be deemed to be the frontage that the building itself and any land occupied or, as the case may be, proposed to be occupied, with the building and for the purposes thereof has or will have on the street.

(4) In ascertaining a majority in number of owners for the purposes of this Order, joint owners and owners holding as tenants in common shall be treated as one owner.

(5) In this Order "private street" means a street other than a public road and, for the purpose of the application of Part V in relation to any building, includes any land shown as a proposed street on plans deposited with respect to that building on a planning application under the **[**F5Planning Act**]** or in accordance with building regulations; and the fact that a part of a street is a public road shall not prevent any other part thereof from being taken for the purposes of this Order to be a part of a private street.

Annotations:

F2 Words in art. 2(2) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 25(a)** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

F3 1995 c. 21
F4 1992 NI 19
F5 Words in art. 2(5) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 25(b)** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

PART II

LAYING OUT AND CONSTRUCTION OF STREETS

Exercise of street planning functions by the Department

3.—(1) Where the development of land for which planning permission is required under **[**F6Part 3 of the Planning Act**]** consists of or includes or appears to require the laying out or construction of streets, the Department shall determine the width, position and arrangement of the streets, and the land to be regarded for the purposes of Part III as being comprised in those streets.

(2) The functions exercisable by the Department by virtue of paragraph (1) are in this Order referred to as "street planning functions" and, where regulations are made under paragraph (3), shall be exercised in accordance with those regulations.

(3) The Department may, by regulations which shall be subject to affirmative resolution, prescribe minimum standards to be applied by it in the exercise of street planning functions, and the regulations may empower the Department to dispense with or relax any of the requirements of the regulations in respect of such matters as may be specified in the regulations.

(4) The Department may, where it considers it necessary for the exercise of street planning functions, require the applicant for permission for the development of any land to submit plans and particulars showing the general scheme for the development of the land of which any street is intended to form part.

[F7(4A) Where street planning functions are exercisable by the Department in relation to a street which joins an existing public road, the Department may, subject to paragraph (4B), attach to any determination under this Article in respect of that street a requirement that such works as the Department considers necessary for the improvement of that public road are carried out in accordance with an agreement under paragraph (4C).

(4B) Works required under paragraph (4A) for the improvement of a public road shall be works which are either—

(a) within the boundary of that road; or

(b) on land owned by the Department.

(4C) The Department may enter into an agreement under seal with any person—

(a) for the carrying out at the expense of that person of works required under paragraph (4A); and

(b) for the issue of a certificate by the Department when those works have been completed in accordance with the agreement and the terms and conditions of the agreement have been duly complied with.

(4D) An agreement under paragraph (4C) between the Department and any other person—

(a) shall contain such detailed provisions as to the nature of the works to be carried out as the Department thinks fit; and

(b) may include provision for ensuring that, for such period as may be specified in the agreement, any defects in those works shall be remedied by, and at the expense of, that person.

(4E) The person with whom the Department enters into an agreement under paragraph (4C) shall secure the due performance of the agreement by means of a guarantee bond or by any other means acceptable to the Department.

(4F) A certificate issued by the Department under paragraph (4C)(b) in respect of any works shall be conclusive for all purposes of this Order that those works have been carried out in accordance with the agreement.

(4G) In paragraph (4A) "improvement" has the same meaning as in**[**F8 Article 43 of the Roads (Northern Ireland) Order 1993**].]**

(5) Where the Department grants outline planning permission for the development of any land and that permission is conditional upon the subsequent approval of the particulars of the proposed development, the Department may defer its determination of the matters referred to in paragraph (1) pending the submission of those particulars.

[F7(5A) The Department may stop up or temporarily close any street which another person has constructed—

(a) before a determination has been given by the Department under paragraph (1) in respect of that street; or

(b) otherwise than in conformity with a determination so given.**]**

(6) In this Article "outline planning permission" has the same meaning as in the **[**F9Planning Act**]**.

Annotations:

F6 Words in art. 3(1) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern-Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 26(a)** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

F7 1992 NI 19

F8 1993 NI 15

F9 Words in art. 3(6) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern-Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 26(b)** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Application of the Planning Order

4.—(1) Subject to the provisions of this Order, functions exercisable in relation to development under the **[**F10Planning Act**]** shall be deemed to include street planning functions and an application for planning permission under **[**F11that Act**]** shall be deemed to include an application for the determination by the Department of any matters set out in Article 3(1) which appear to the Department to require to be determined in accordance with the application for planning permission.

(2) The **[**F12Planning Act**]** shall apply to the exercise of street planning functions in like manner as it applies to the exercise of functions in relation to development.

(3) Without prejudice to the generality of **[**F13section 58 of the Planning Act**]**, an applicant for permission for the development of any land may appeal under **[**F14that section**]** against the refusal of the Department to dispense with or relax as respects that land any standards prescribed in regulations made under Article 3(3) which it is empowered by those regulations to dispense with or relax.

(4) For the purposes of **[**F15Part 5 of the Planning Act**]**, failure to provide a street for which planning permission has been granted either under the Planning Act (Northern Ireland) 1944 **[**F16or

the Planning Act**]** shall be deemed to be a breach of planning control and the powers exercisable by the Department under that Part shall include power to provide that street.

Annotations:

F10 Words in art. 4(1) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 27(a)** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

F11 Words in art. 4(1) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 27(b)** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

F12 Words in art. 4(2) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 28** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

F13 Words in art. 4(3) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 29(a)** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

F14 Words in art. 4(3) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 29(b)** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

F15 Words in art. 4(4) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 30(a)** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

F16 Words in art. 4(4) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 30(b)** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Standards for construction of streets

5.—(1) The Department may, by regulations which shall be subject to affirmative resolution—

(a) prescribe standards in relation to any matter (other than a matter in relation to which regulations may be made under Article 3(3)) in connection with or affecting the construction of streets;

(b) draw up and include in the regulations such detailed requirements as may be necessary in relation to all or any of the matters for which regulations may be made under this paragraph;

(c) provide for the determination of any question arising under the regulations between the Department and the person by or on whose behalf plans are deposited;

(d) provide for the giving of notices and the deposit of plans;

(e) provide for the inspection of work and for the carrying out of such investigations and tests and the taking of such samples as are necessary to ensure that the work is in conformity with the regulations;

(f) provide for the removal or alteration of work not in conformity with the regulations;

(g) provide that no work shall be commenced on matters to which regulations under this paragraph apply until any question arising under the regulations has been determined or any plans required to be deposited have been approved by the Department;

(h) provide for the**[**[F17] bearing of any expenses**]** in connection with—

(i) the carrying out of**[**[F17] inspections,**]** investigations and tests and the taking of samples for the purposes of regulations made under sub-paragraph (*e*), and