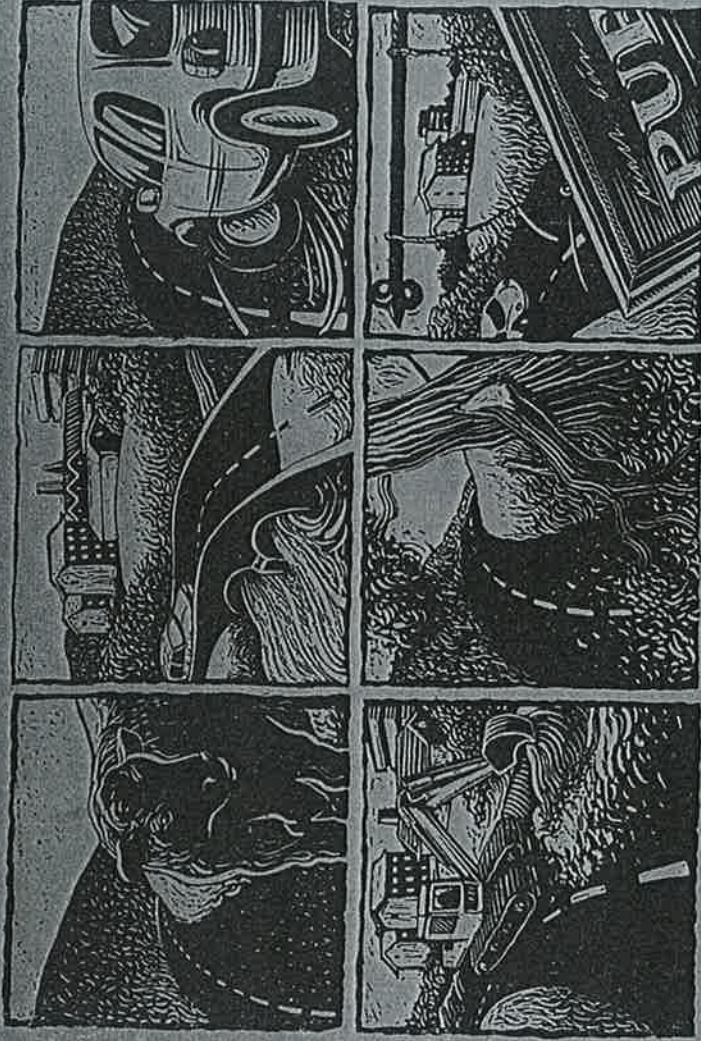


AN ROINN COMHSHAOIL



*Úinéirí Talaimh agus
Acht na mBóithre – Treoir
Landowners and
The Roads Act – A Guide*

3. *Draenacha a chur ar fáil agus Ábhair á Stóráil go Sealadach ag an Údarás Áitiúil (ALT 76).*

Bionn gá i gcónaí le córas ceart draenála le bóithre a chosaint ar thuilte, ar chreimeadh agus lena chinntiú nach dtiocfaidh laigí i struchtúr bóithre. Tugann Acht na mBóithre cumhacht d'údarás áitiúla draenacha a thógáil agus a choinneáil trí thalamh ar bith chun uisce a thógáil ó bhóthar poiblí nó chun cosc a chur ar uisce ó bheith ag síleadh anuas ar bhóthar poiblí. Is féidir le húdarás áitiúla úsáid a bhaint as talamh chun ábhair thógála nó ábhair chothabhála bóithre a ullmhú nó a stóráil go sealadach, mar shampla gairbhéal, cré srl.

An gcaithfidh údarás áitiúil insint dom sula dtéitear ar mó chuid talairíní chun oibreacha draenála a dhéanamh nó chun ábhair thógála bóithre a ullmhú nó a stóráil go sealadach?

Caithfidh údarás áitiúil fógra míosa ar a laghad a thabhairt d'úinéirí nó d'áititheoirí talaimh sula dtéitear isteach ar a gcuid talaimh chun oibreacha draenála a dhéanamh nó lena úsáid chun ábhair thógála bóithre a ullmhú nó a stóráil go sealadach. Tá sé

3. *The Provision of Drains and the Temporary Storage of Materials by Local Authorities (SECTION 76).*

An adequate drainage system is essential to prevent flooding of roads, to avoid weakening the structure of roads and to avoid erosion. The Roads Act allows local authorities to construct and maintain drains through any land in order to remove water from a public road or to prevent water flowing onto one. Local authorities may also use land for the temporary storage or preparation of road construction or maintenance materials such as gravel, earth etc.

Must I be informed before a local authority enters my land to carry out drainage works or to temporarily store or prepare road construction materials?

A local authority is obliged to give at least one month's notice to landowners or occupiers before going onto any land to carry out drainage works or to temporarily use it to prepare or store road construction materials. The landowner or occupier has a right to make written objections or representations and these must be considered by the local authority. The only exception is in an emergency such as a

Caithfear fógra achomhairc a thabhairt don údarás áitiúil.

Cé atá freagrach as cláiocha ar thaobh an bhóthair?

De ghnáth is é úinéir nó áititheoir an talaimh atá taobh leis an bhóthar poiblí a bhíonn freagrach as cláiocha. D'fhéadfadh eisceactaí a bheith ann. Bionn an t-údarás áitiúil freagrach as cláiocha ar thaobh mótarbhealaí de ghnáth. D'fhéadfadh an t-údarás áitiúil a bheith freagrach as cláiocha ar bhóithre eile má bhíonn sé sin socraithe leis an úinéir. Má bhíonn aon amhras ort, gabh i dteagmháil le d'údarás áitiúil. Chomh maith le sin ba chóir cláiocha ar thaobh an bhóthair a choinneáil i ndeora ord agus a sheiceáil go rialta lena chinntiú nach dtéann ainmhithe ar seachrán amach ar an bhóthar poiblí.

Who is responsible for roadside fences?

As a general rule, the landowner or occupier of land adjoining a public road is responsible for the fences. There may be exceptions. Fences adjoining motorways are generally the responsibility of the local authority. Fences on other roads may sometimes be the responsibility of the local authority by agreement with the landowner. If in doubt, check with your local authority. In addition roadside fences should be maintained and checked regularly to ensure that animals do not wander onto the public road.

de cheart ag an úinéir nó ag an áititheoir agóidí nó faisnéis a chur i scríbhinn chuig an údarás áitiúil agus caithfidh an t-údarás áitiúil aird a thabhairt air sin. Níl ach eisceacht amháin ann, 'sé sin, i gcás éigeandála amháin maidhm talaimh, bóthar a bheith ag tabhairt faoi, nó tuilte ar nítche iad sin a d'fhéadfadh a bheith an-chontúirteach do dhaoine ar an bhóthar, nó a d'fhéadfadh droch-dhámaiste a dhéanamh don bhóthar féin. I gcásanna mar sin is féidir leis an údarás áitiúil gníomhú ar an toirt gan fógra a thabhairt roimh ré, cé go ndéanfaidh sé gach iarracht, ar ndóig, fógra a thabhairt don úinéir talaimh gan mhoill.

An bhfuil mé i dteideal-cúiteamh a fháil de thoradh damáiste ar é an t-údarás áitiúil is cúis leis le linn dó oibreacha draenála a dhéanamh nó ábhair thógála bóithre a ullmhú nó a stóráil?

Tá cúiteamh infoctha i leith damáiste a dhéantar de thoradh oibreacha draenála (agus oibreacha a dhéantar le linn éigeandála a chur san áireamh) a dhéanfaidh an t-údarás áitiúil nó de thoradh ábhair thógála bóithre a bheith á n-ullmhú nó á stóráil go sealadach. Ní bheidh úinéir talaimh ná áititheoir i dteideal cúiteamh a fháil i leith damáiste a bhí ann roimhe ar uisce ó bhóthar poiblí ba chúis leis, ach beidh siad i

landslide, flooding or subsidence where there is a serious hazard to road users or where the road itself could be seriously damaged. In such circumstances the local authority can take immediate action without giving advance notice, though it will of course try to notify the landowner without delay.

Am I entitled to compensation for damage caused by a local authority carrying out drainage works or preparing/storing road construction materials?

Compensation is payable in respect of damage caused to land as a result of the local authority carrying out drainage works (including works carried out in an emergency) or as a result of the temporary storage or preparation of road construction materials. A landowner or occupier will not be entitled to compensation in respect of pre-existing damage caused by water draining off a public road, but will be entitled to compensation for any additional damage caused by new works. There is a six months' time limit for the submission of claims for damage to your local authority.

dteideal cúiteamh a fháil i léith aon damáiste breise arb iad na noibreacha nua is cúis leis. Tá teorainn ama sé mhí ann le haghaidh éilimh a chur isteach chuig d'údarás áitiúil as síocair aon damáiste a dhéantar.

4. *Dualgas chun Draenála a Choinneáil Glan (ALT 76).*

Tá dualgas ar úinéirí talaimh agus ar áititheoirí gach beart réasúnta a dhéanamh lena chinntiú gur féidir le huisce draenáil ó bhóthar poiblí isteach ar a gcuid talaimh.

Caithfidh siad a chinntiú chomh maith nach n-éalaíonn uisce, créafóg ná ábhair eile óna gcuid talaimh amach ar an bhóthar poiblí.

Is féidir le húdarás áitiúil fógra scríofa a sheirbheáil ar úinéir talaimh nó ar áititheoir á iarraidh air/luirthi oibreacha faoi leith a dhéanamh (m.sh draein a ghlanadh) chun

- a chinntiú gur féidir le huisce draenáil ó bhóthar poiblí isteach ar thalamh an úinéara, nó an áititheora, nó
- éalú uisce, créafóige srl. ón talamh amach ar an bhóthar poiblí a chosc.

Report on

4. *Obligation to Keep Drains Clear (Section 76 of the 1993 Roads Act)*

Landowners and occupiers are obliged to take all reasonable steps to ensure that water can drain off a public road onto their land. They must also ensure that water, soil or other materials do not escape from their land onto a public road.

A local authority may serve a written notice on a landowner or occupier requiring him/her to carry out works (e.g. unblocking a drain) to

- ensure that water can drain from a public road onto his or her land, or
- to prevent water, soil etc. from escaping from the land onto a public road.

Where the person on whom the notice was served fails to comply with it the local authority may carry out the works itself and may also carry out any other additional remedial works as it sees fit. It is an offence not to comply with such a notice with fines of up to £1,000 or to imprisonment of up to six months, or both.

Is féidir leis an údarás áitiúil féin an obair lena mbaineann fógra a dhéanamh mura ndéanann an té ar ar seirbheáladh an fógra an obair. Is féidir leis an údarás áitiúil cib oibreacha breise feabhais a bhfuil gá leo a dhéanamh freisin. Cion atá ann gan déanamh de réir fógra den sórt sin agus dlítear fineáil nach mó na £1,000 agus/nó téarma prófúinachta nach mó ná sé mhí a chur ar dhuine ina leith.

Tá sé de cheart ag an údarás áitiúil freisin beart práinneach a dhéanamh i gcás baol tromai láithreach a bheith ann do dhaoine a úsáideann an bóthar poiblí nó i gcás ina bhféadfá droch-dhamaíste a dhéanamh don bhóthar mar gheall ar

- cosc a bheith curtha ar uisce draenáil ón bhóthar poiblí, nó
- uisce, créafóg nó ábhair eile a bheith ag titim anuas ar an bhóthar poiblí.

Ní gá fógra a thabhairt roimh ré i gcásanna mar seo.

Is féidir leis an údarás áitiúil a chuid costas a ghnóthú ón úinéir talaimh nó ón áititheoir i gcás ina ndéanann sé an obair é féin faoi cheachtar den dá chumhacht thuas.

A local authority also has the right, to take urgent action where there is an immediate and serious hazard to persons using the public road or where serious damage could be caused to the public road

- due to water being prevented from draining off the road
- or where water, soil or other material is allowed to fall onto a public road.

No advance notice is needed in such cases.

The local authority may recover its costs from the landowner or occupier where it carries out work itself under either power.

An féidir liom achomharc a dhéanamh in aghaidh fhógra an údarás áitiúil a iarrann orm obair a dhéanamh chun draenacha a ghlanadh srl?

Is féidir le duine ar ar seirbheáladh fógra achomharc a dhéanamh in aghaidh an fhógra sa Chúirt Dúiche taobh istigh de cheithre lá dhéag. Tig le duine achomharc a dhéanamh ar na forais seo a leanas:

- nach é an duine úinéir nó áititheoir an talaimh atá i gceist
- nach bhfuil cosc á chur ar uisce draenáil ón bhóthar poiblí
- nach bhfuil uisce, créafóg nó ábhair eile ag titim anuas ar an bhóthar
- go mbeadh costas na hoibre a bheadh le déanamh míréasúnta, nó
- nár tugadh go leor ama leis an obair a dhéanamh.

Caithfear fógra achomhairc a thabhairt don údarás áitiúil.

Can I appeal a notice from the local authority which requires work to be carried out to unblock drains etc?

A person on whom a notice has been served has a right to appeal to the local District Court within fourteen days. An appeal may be made on the grounds that

- the person is not the owner or occupier of the land in question
- that water is not prevented from draining off the road
- that water, soil or other material is not falling onto the road
- that the cost of carrying out the required works would be unreasonable, or
- that sufficient time was not given in order to carry out the required action.

Notice of an appeal must be given to the local authority.

5. Ag Obair gar do Thaobh an Bhóthair. (ALT 76)

Sula ndéanann duine ar bith aon draein láithreach a sciúradh, a dhoimhniú nó a líonadh isteach, nó má dhéanann sé aon draein nua a thocallt, tæobh istigh de 15 mheadar (50 troigh) ón immeall is gaire de bhóthar poiblí caithfidh an duine sin cead scríofa a fháil roimh ré ón údarás áitiúil. Cion atá ann a leitheid d'obair a dhéanamh gan cead a fháil ón údarás áitiúil agus dlitear ífneáil nach mó na £1,000 agus/nó téarma próisúnachta nach mó ná sé mhí a chur ar dhuine ina leith. Ní chuireann sé seo aon bhac ar ghnáth-chothabháil draenacha go gcaithfidh an t-úinéir nó an t-áititheoir a dhéanamh lena bheith cinnte nach gcuirtear aon chosc ar uisce draenáil ón bhóthar poiblí nó le cosc a chur ar uisce, créafóg nó ábhair eile titim anuas ar bhóthar poiblí.

Má táthar le hobair ar bith a dhéanamh a chuirfeadh isteach ar aon droichead nó ar aon déanmhas eile a iompraíonn nó a thugann tacaíocht do bhóthar poiblí, amhail cliaffort nó balla cuibhrithe, caithfear cead scríofa a fháil ón údarás áitiúil ar dtús.

5. Working Near the Roadside. (SECTION 76)

Before a person scours, deepens or fills in any existing drain, or digs any new drain within 15 metres (50 feet) of the nearest edge of a public road that person must first get written consent from the local authority. It is an offence to carry out such work without local authority consent with fines of up to £1,000 and/or up to 6 months imprisonment. This does not preclude the ordinary maintenance of drains which the landowner or occupier is required to carry out to ensure water is not prevented from draining from the public road or to prevent water, soil or other material falling onto a public road.

Work which would interfere with a bridge or any other structure, such as an embankment or retaining wall, which carries or supports a public road must only be carried out with the written consent of the local authority.

The local authority will be able to attach conditions, restrictions or requirements to a consent given above and it will be an offence not to comply.

Beidh an t-údarás áitiúil ábalta coinneallacha, srianta nó ceanglais a chur le cead ar bith a thugann sé. Is cion é gan déanamh dá réir sin.

Is féidir le húdarás áitiúil aon ghníomh atá luaite thuas a chosc láithreach i gcás ina bhfuil damáiste a dhéanamh do bhóthar poiblí nó ina bhféadfadh damáiste tarlú. Is cion é gan déanamh dá réir sin agus is féidir leis an údarás áitiúil aon chostas a bhaineann leis an damáiste a dheisiú nó a chosc, a ghnóthú ón té a rinne an obair a raibh cosc uirthi, nó ó úinéir an talaimh, ach amháin i gcás inar thug an t-údarás áitiúil cead roimh ré chun an obair a dhéanamh.

Gabh i dtéagmháil le húdarás áitiúil s'agat féin sula ndéanann tú aon mhór-obreacha gar do bhóthar poiblí. Ní hamháin go mbeifeá ag cinntiú go bhfuil tú ag comhlíonadh dó chuid dualgas dleathúil mar atá luaite thuas ach d'fhéadfadh teagmháil den sórt sin cuidiú le mór-dhamáiste a shéachaint (nach ndéantar d'aon ghnó).

A local authority can immediately prohibit any activity mentioned above whereby damage is being done or could be caused to a public road. It will be an offence not to comply and the cost of repairing or preventing the damage can be recovered from the person carrying out the activity which was prohibited or from the landowner, except where the local authority had previously given its consent to the activity.

Please contact your local authority before carrying out any substantial works near a public road. Apart from ensuring that you comply with your legal obligations as outlined above, it might help avoid potentially serious (but unintended) damage to the road.