
Transport Infrastructure Ireland



Electronic Communications Infrastructure

**Use of
Underground
Road Capacity
on
National Roads**

Scheme

Prepared under section 53(11) of the
Communications Regulation Act, 2002, as amended.

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Part 1

Introduction.

1.1 TII and the National Road Network.

1.1.1 About Transport Infrastructure Ireland.

Under the Roads Act 2015, the staff and functions of the Railway Procurement Agency (RPA) were merged with the National Roads Authority (NRA) with effect from 1 August 2015. Established in 2001, the RPA was responsible for the development of light railway and metro infrastructure, while the NRA, which was established in 1994, has overall responsibility for the development and maintenance of the national road network. The name “Transport Infrastructure Ireland” (TII) was specified by the Minister for Transport, Tourism & Sport as the name by which the NRA may describe itself for operational purposes following the merger of the two organisations (Statutory Instrument No. 297/2015).

TII is a non commercial semi-State body which operates under the aegis of the Department of Transport, Tourism & Sport. Our mission is to provide high quality transport infrastructure and services, delivering a better quality of life and supporting economic growth. A key statutory function of Transport Infrastructure Ireland is to secure the provision of a safe and efficient network of national roads (*section 17 of the Roads Acts, 1993 to 2015*). Our mission is to provide high quality transport infrastructure and services, delivering a better quality of life and supporting economic growth.

1.1.2 The National Road Network.

National roads play a key role in providing access to all regions of the country and connections between the main centres of population. Although national roads account for less than 6% of the total length of public roads throughout the country, i.e. approximately 5,400 km out of 94,600 km, their significance in serving our economic and social transport needs is reflected in the fact that they carry almost 50% of all road traffic in Ireland.

National roads are prefixed with the letters “N” or “M”, e.g. N5, M50. A map of the national road network is provided at Appendix A.

1.2 Electronic Communications Roadworks on National Roads – Regulatory Framework.

1.2.1 Communications Regulation Act, 2002.

Part 5 of the Communications Regulation Act, 2002, as amended, (“**the 2002 Act**”) provides the regulatory framework governing the carrying out of roadworks on national roads by network operators for the purpose of establishing, extending or maintaining, etc. underground electronic communications infrastructure and associated physical infrastructure.

1.2.2 Formulation and Adoption of TII Policy.

This scheme has been prepared to outline TII policy regarding the use of underground national road capacity by network operators. The scheme has been prepared in accordance with section 53 (11) of the 2002 Act which provides that TII,

‘in the case of national roads, following consultation, not exceeding 60 days, with road authorities, or a road authority, in the case of regional and local roads in its functional area, may formulate and, after public consultation, adopt a scheme setting out its policy regarding-

- (a) the use of underground road capacity, including the rationing of any particular underground spaces below roads,*
- (b) conditions (including restrictions and requirements) that may be imposed by it in relation to the grant of consents, either generally or with respect to specific areas or circumstances,*
- (c) refusal of consent, either generally or with respect to specific areas or circumstances,*
- (d) charges under this Part, and*
- (e) emergency road works.’*

1.3 Definitions of Key Words/Phrases Used in This Scheme.

Throughout this document, unless otherwise stated, the following words have the meanings indicated:

“1993 Act” means the Roads Act, 1993, as amended.

“2002 Act” means the Communications Regulation Act, 2002, as amended by the Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act, 2010.

“Authority” means Transport Infrastructure Ireland (formally, the National Roads Authority).

“Consent” means a consent granted to a network operator by TII under section 53(3)(a) of the 2002 Act to carry out roadworks on a national road.

“Duct” means a pipe or a tube installed along a national road by or on behalf of TII which may, inter alia, be used for the carriage of electronic communications infrastructure.

“Electronic communications infrastructure” means any part of an electronic communications network.

“Emergency roadworks” means roadworks necessary to eliminate or reduce danger or risk to persons or property.

“National road” means a public road or a proposed public road which is classified as a national road under section 10 of the Roads Act, 1993, as amended.

“Network operator” means any person who provides or operates an electronic communications network.

(References to ‘network operator’ throughout this scheme shall be deemed to include any person engaged by the network operator for purposes related to roadworks on a national road).

“Physical Infrastructure” means infrastructure which is capable of supporting electric communications infrastructure including ducts, poles, antennae support structures and rights of way overland but does not include electronic communications infrastructure.

“Road” includes—

- (a) any street, lane, footpath, square, court, alley or passage,
- (b) any bridge, viaduct, underpass, subway, tunnel, overpass, overbridge, flyover, carriageway (whether single or multiple), pavement or footway,
- (c) any weighbridge or other facility for the weighing or inspection of vehicles, toll plaza or other facility for the collection of tolls, service area, emergency telephone, first aid post, culvert, arch, gully, railing, fence, wall, barrier, guardrail, margin, kerb, lay-by, hard shoulder, island, pedestrian refuge, median, central reserve, channelliser, roundabout, gantry, pole, ramp, bollard, pipe, wire, cable, sign, signal or lighting forming part of the road, and

(d) any other structure or thing forming part of the road and

(i) necessary for the safety, convenience or amenity of road users or for the construction, maintenance, operation or management of the road or for the protection of the environment, or

(ii) prescribed by the Minister.

“Road authority” means the County Council or City Council in whose administrative area the national road in respect of which it is proposed to carry out roadworks is located.

“Roadworks” means the opening of a public road or any act or work that requires or causes the closing of a public road or part of a public road, including the opening or closing of a public road or part of a public road for the purposes of opening ducts, for the purpose of the establishment, extension, replacement, repair, removal or maintenance of works on electronic communications infrastructure.

1.4 Scope of Application of This Scheme.

This scheme applies to network operators who intend to carry out roadworks (as defined in section 1.3) on national roads for the purposes of:

- (i) Establishing underground electronic communications infrastructure and any associated physical infrastructure;
- (ii) Extending the underground electronic communications network to parts of the road under which electronic communications infrastructure has not previously been placed by that network operator;
- (iii) Carrying out roadworks on underground electronic communications infrastructure, being maintenance, repair, replacement or the addition or removal of underground electronic communications infrastructure, or
- (iv) Installing electronic communications infrastructure in ducts which are the responsibility of TII.

Notwithstanding the foregoing, TII reserves the right, at its absolute discretion, to apply modified or additional provisions as may be deemed appropriate in respect of proposed roadworks on national roads.

1.5 Monitoring/Review of Scheme.

The provisions of this scheme will be monitored and reviewed, as appropriate, by TII to ensure that consent applications are processed in a timely and efficient manner and that the safety of road users and the operational efficiency of national roads are not compromised as a consequence of roadworks.

Part 2

Underground Road Capacity on National Roads.

2.1 Introduction.

In recent years, TII has adopted a practice of installing roadside ducting as part of the construction of new motorway and dual carriageway sections of the network. This ducting is primarily intended for current and future road-related purposes, e.g. traffic route lighting, variable message signs, I.T. applications for traffic and road network management, etc. However, limited spare capacity exists in some of these ducts which could cater for non-road-related uses such as electronic communications cabling.

2.2 Location and Description of Ducts.

A map showing the indicative locations and the number of service ducts (typically 100mm diameter) installed by or on behalf of TII along the verges of inter-urban motorway/ dual carriageway sections of the national road network as part of the construction or upgrade of the roads concerned is attached at Appendix B.

Note: The map concerned is provided for illustrative purposes only.

2.3 Retention of Ducts/Duct Space for Road-Related Purposes.

The ducting installed along major national road schemes in recent years as part of national roads programme related works is primarily intended for road-related purposes. The granting of consent by TII to network operators wishing to avail of such ducting will, accordingly, only be considered where surplus capacity exists over and above existing and potential future road-related needs of TII/the road authority for the area concerned. In general, a minimum of two ducts are required for road-related purposes.

2.4 Condition of Ducts.

TII neither gives nor makes any representation, guarantee or warranty (express or implied) in relation to the continuity, condition, existence, design or fitness for purpose of ducts along national roads.

2.5 Survey of Ducts.

Where a network operator intends to submit a roadworks consent application relating to the use of ducts along motorway/ dual carriageway sections of national roads (see map at Appendix B), TII will facilitate any prior request made by the operator to undertake of a survey to establish the continuity, condition, existence, design and fitness for purpose of ducting along the route(s) concerned. Costs in connection with such surveys, which shall be undertaken at dates and times agreed beforehand with TII and in accordance with traffic management and other operational arrangements acceptable to TII, will be borne entirely by the network operator.

No liability whatsoever shall attach to TII or to any road authority for any costs or expenditure incurred by network operators in connection with or arising from the undertaking of such surveys, or as a consequence of the failure of a network operator to undertake such surveys or to take other appropriate steps to establish the continuity, condition, existence, design or fitness for purpose of the ducting concerned, where the network operator makes a roadworks consent application to TII.

2.6 Repairs to Ducts.

Where, as a consequence of a duct condition survey, or otherwise, it is determined that repairs are required to ducts, or that incidental gaps in available ducts need to be addressed, it will be a matter for network operators to undertake the necessary works, following agreement with TII, and to meet the costs involved.

2.7 Sharing of Duct Space.

In the interests of maximising the benefits to be derived from available duct capacity, network operators granted consents under section 53(3)(a) of the 2002 Act may be required to share the use of the ducts along national roads, including access arrangements.

2.8 Installation of Sub-Ducts.

The existing ducts along national roads are capable of supporting up to four sub-ducts, thereby maximising the benefits to be derived for electronic communications purposes from the available duct capacity. In order to realise these benefits, it would be appropriate, where sub-ducts have not previously been installed, that one of the network operators granted a roadworks consent would undertake the necessary sub-ducting work. The associated costs, to the extent that the work undertaken is over and above that required to satisfy the needs of the network operator concerned, may be offset against the charges payable to TII for the use of the duct on the national road.

Ownership of the ducts/ sub-ducts concerned shall rest with TII.

2.9 Completion of Duct Network.

As indicated in the map at Appendix B, there are gaps, sometimes over significant distances, in the ducts along national roads. It will be a matter for network operators, who wish to do so, to install ducts along the sections of roads concerned for the purpose of addressing such gaps. The provisions of section 53(1) of the 2002 Act apply to roadworks to be undertaken for the purpose of installing ducts in the circumstances indicated.

See also paragraph 3.6 regarding applications to install new ducts on national roads.

2.10 Security of Ducts.

Network operators wishing to avail of ducting along national roads should be aware that the ducting concerned may be accessed from time to time by other network operators who have been duly authorised under section 53 of the 2002 Act, as well as by TII and road authority/ personnel acting on their behalf. TII accepts no liability whatsoever for any damage or loss suffered or incurred by any network operator as a result of such access and related actions.

2.11 Public Private Partnership Road Schemes.

In accordance with Government policy, a number of major national road schemes have been constructed in recent years under TII's Public Private Partnership (PPP) programme. Appendix C contains a map showing the locations of the schemes concerned as well as contact information for the PPP companies concerned. It will be a matter for network operators to consult with the PPP companies where operators propose to submit a roadworks consent application to TII in respect of sections of the network concerned and to comply with any terms and conditions as may be required by the PPP company in connection with the proposed roadworks. Evidence of such agreement will be required to be submitted to TII before TII makes a decision on the roadworks consent application.

TII, in dealing with consent applications relating to PPP provided sections of the network, will be obliged to respect relevant terms and conditions of PPP contracts.

Part 3

Consent Applications.

3.1 Requirement to Obtain TII Consent.

In accordance with the provisions of section 53(1) of the 2002 Act, no roadworks on national roads may be undertaken by network operators without the prior written consent of TII. A network operator or a person engaged by the network operator who contravenes the provisions of section 53(1) is liable, on summary conviction, to a fine not exceeding €5,000 or, on conviction on indictment, to a fine not exceeding €1,000,000.

(Note: A consent is deemed to have been granted, in line with the provisions of section 53(4), where a network operator carries out emergency roadworks, i.e. roadworks necessary to eliminate or reduce danger or risk to persons or property. Please refer to Part 6 for further information regarding emergency roadworks).

Applications for consents in relation to proposed roadworks on national roads should be submitted by network operators to TII. Under the Act, roadworks include:

- (i) establishing underground electronic communications infrastructure and any associated physical infrastructure,
- (ii) extending the underground electronic communications network to parts of the national road under which electronic communications infrastructure has not previously been placed by that network operator,
- (iii) carrying out roadworks on underground electronic communications infrastructure, being maintenance, repair, replacement or the addition or removal of underground electronic communications infrastructure, or
- (iv) installing electronic communications infrastructure in ducts, which are the responsibility of TII.

Where consents are granted by TII, network operators or persons engaged by them are required to comply with any conditions contained in such consents.

3.2 Equal Treatment.

Applications for consents under the 2002 Act will be considered and decided upon by TII on a 'first come, first served' basis or through the drawing of lots where the number

of consent applications exceed the available spare duct capacity. In deciding whether to grant a consent, with or without conditions, TII will not discriminate unfairly between network operators.

3.3 Submission of Applications to TII.

Applications for consents to carry out telecommunications roadworks on national roads must be made to TII through the MapRoad Roadworks Licensing (MRL) system, <https://maproadroadworkslicensing.ie/MRL/>, which is the national system for managing roadworks applications. Comprehensive information on using the system and the processes involved are provided in the Help/FAQs section of the site.

Network operators should ensure that sufficient time is available to TII to comply with the consultation and other procedures set out in the 2002 Act for the processing of roadworks consent applications taking account of the planned commencement date of roadworks. These various procedures could, in circumstances where the periods prescribed in the Act are fully availed of, entail a period of at least four months before the terms of a consent are finalised.

3.4 Assessment of Applications.

The key purposes of TII's assessment of consent applications and of the related TII/road authority consultation process, as provided for under the 2002 Act, are to ensure the proper management and co-ordination of roadworks on national roads so as to minimise safety risks and disruption to traffic and road users generally, as well as to identify specific conditions that may be appropriate in the granting of a consent, including conditions intended to protect the condition and structural integrity of the road.

Rural sections of national roads, particularly motorway and dual carriageway sections of the network, typically carry high volumes of traffic, much of it heavy goods vehicles, travelling at high speeds. In the circumstances, particular issues and concerns in relation to road safety will attach to roadworks consent applications relating to motorways and dual carriageways. Accordingly, in considering applications by network operators for consent to undertake roadworks on these roads, TII's primary concern will be to ensure that the safety of road users and the operational efficiency of the national road concerned are not compromised as a consequence of the proposed roadworks.

Urban Locations.

The 2002 Act requires that TII consent be obtained for proposed roadworks on all national roads, including those sections of the network that are located within urban areas. Accordingly, having regard to the significant number of consent applications in relation to urban roads, the particular traffic management, reinstatement and other

requirements that apply to such locations, as well as the need to ensure that the roadworks concerned are coordinated, as appropriate, with works by other utilities, TII will, as part of the road authority consultation process provided for under section 53(3)(a) of the 2002 Act, rely on the road authority concerned to identify the appropriate terms and conditions to be included in consents for proposed roadworks in urban areas. Where TII decides to grant a consent, it will have regard to any suggested terms and conditions put forward by the road authority concerned. TII reserves the right to apply any additional terms and conditions to such consents as it sees fit.

Non-Motorway/ Dual Carriageway Rural Locations.

Similar procedures will be applied in respect of consent applications relating to non-motorway/ dual carriageway rural sections of national roads. TII's primary focus in relation to such applications will be to protect the structural integrity of the national road concerned and ensure the safety and operational efficiency of the road for all road users.

Inter-Urban Motorways and Dual Carriageways.

Ireland's inter-urban motorway and dual carriageway network provides vital, strategic transport links between our major cities, ports and airports. TII's primary concerns, in considering consent applications relating to these sections of the network, are to ensure that the roads concerned continue to fulfill their strategic transport objective and to protect the major investment that has been made by Government in the development of these roads.

3.5 Additional Approvals.

It should be noted that roadworks on national roads may require additional approvals such as Wayleave (e.g. where works are proposed through signal controlled junctions, works involving a bridge crossing, suspension of parking etc.), Road Opening Licence (where the proposed roadworks require the excavation of a national road), road closure order etc.

An additional requirement arises in the case of a roadworks consent application to TII in which the section of national road concerned includes a railway bridge crossing. Such crossings are constructed in accordance with agreements between CIÉ, Iarnród Éireann, the relevant local authority and TII. The agreements concerned typically include a requirement to obtain the prior written approval of CIÉ/ Iarnród Éireann for a consent application involving the railway bridge concerned.

Additional approvals must be obtained by the network operator and submitted with the consent application to TII.

Any consent granted by TII under section 53(3)(a) of the Act will not become operative until all necessary approvals are obtained and submitted to TII.

3.6 Installation of New Ducts.

National roads carry high volumes of traffic travelling at high speeds. This is particularly the case on the inter-urban motorway/ dual carriageway sections of the network where the maximum speed limit of 120 kph typically applies. Any proposal to install new ducting on such roads would, therefore, have very significant implications for the safety of road users and the operational efficiency of the roadway concerned, as well as the structural integrity of the carriageway.

Applications by network operators to install new/ additional ducting along rural sections of national roads will, accordingly, only be considered by TII in exceptional circumstances and where the proposed works do not require the excavation of the road pavement or, with the agreement of TII, would be confined to the maintenance strip.

3.7 Obligation to Co-Ordinate With & Accommodate Other Network Operators/ Utility Providers.

The national road network provides strategic transport links to all regions of the country, linking the main centres of population on the island and providing access to our main ports and airports. It is, therefore, essential that the safety and efficiency of the network are not compromised by unnecessary or badly co-ordinated roadworks. Network operators granted access to ducting along national roads will, accordingly, be required, as appropriate, to co-ordinate with and accommodate other network operators/ utility providers when undertaking roadworks for the installation, maintenance, repair etc. of electronic communications infrastructure along national roads.

3.8 Conditions That May be Imposed in Consents.

Where TII proposes to grant a consent to a network operator to carry out roadworks on a national road, the consent may, in accordance with the provisions of sections 53(5) and 53(6) of the 2002 Act, include conditions which, without prejudice to any other conditions that may be imposed in the consent, may:

- (a) provide that network operators meet any losses, liabilities and costs suffered or incurred by TII under contractual arrangements with a third party, where such losses, liabilities and costs arise as a result of any act undertaken by the network operator, under section 53(3) or (4) of the Act, in relation to electronic communications infrastructure;
- (b) where ducts on national roads are provided and made available by TII to a network operator, provide that TII shall not be liable to that network operator for any loss or damage howsoever caused to the electronic communications

infrastructure in those ducts, which is the property of the network operator, except for such loss or damage caused by the wilful act or gross negligence of TII or its agents acting on its behalf, and

- (c) provide that TII may have representatives/ persons acting on its behalf present at roadworks sites for the purpose of determining compliance with any conditions imposed in connection with any act undertaken by the network operator, under a consent issued under section 53(3) or (4) of the 2002 Act, in relation to electronic communications infrastructure.

When considering an application for a consent in respect of roadworks relating to a national road and any conditions that may be imposed in the granting of a consent, TII is required under section 53(10) of the 2002 Act to have particular regard to the following matters:

- (i) The existing and potential use and availability of space under the surface of the national road concerned, including—
- the requirements of TII in the performance of its functions and responsibilities;
 - the course and depth of ducts to be laid by the applicant;
 - the existence of ducts in addition to those which are immediately required by any network operator, and
 - the existence of duct space in addition to that which is reasonably required by any network operator.
- (ii) The safe and efficient operation of the national road.
- (iii) Road reconstruction, repair and maintenance costs that may arise as a consequence of the application.
- (iv) The protection of the environment and of amenities including residential amenities.
- (v) The manner and timing of the reinstatement of the road.
- (vi) The policy as set out in this scheme.
- (vii) Any contractual arrangements which TII may have with a third party.

A key requirement of TII in granting a consent is to ensure the continued safe and efficient operation of the national road concerned. It is also essential that all roadworks carried out by network operators on national roads are implemented in accordance with the design standards set out in the *TII Specification for the Reinstatement of Openings in National Roads* so as to protect the condition and structural integrity of

the national roads concerned. The document concerned is available to download from TII's website www.tii.ie.

Conditions that may be included in consents may relate to some or all of the following:

- Nature and extent of roadworks.
- Roadworks method statements.
- Traffic management arrangements.
- Standards/quality control.
- Timing of roadworks, including repairs and maintenance of electronic communications infrastructure and of the national road concerned.
- Periods during which roadworks are permitted.
- Signing of roadworks.
- Installing electronic communications infrastructure in ducts, which are the responsibility of TII, on national roads.
- Establishing underground electronic communications infrastructure.
- Extending underground electronic communications networks.
- Carrying out roadworks on underground electronic communications infrastructure, e.g. maintenance, repair, replacement, addition or removal of such infrastructure.
- Restrictions on roadworks to accommodate special events.
- Moratoria on roadworks on specified roads.
- Requirement to cease work in the event of traffic accident or other emergency impacting on the operation or management of the road.
- Direction to cease works.
- Removal of electronic communications infrastructure.
- Prior notification of intention to commence roadworks.
- Inspection of roadworks.
- Road repair, re-instatement and maintenance.
- Payment of fees/charges, etc.
- Liability of the network operator to meet any losses, liabilities and costs suffered or incurred by TII under contractual arrangements with a third party.
- Indemnity of TII against loss or damage caused to electronic communications infrastructure installed in national road ducts.
- Presence of TII/local authority representatives/ their nominees at roadworks sites.

The above is not intended to constitute an exhaustive list of issues in respect of which TII may impose conditions. TII reserves the right to impose any conditions that are considered appropriate in order to protect the safety and efficiency of the national road concerned, the capital investment made by Government in the development of the national road network as well as conditions consistent with the performance of TII's functions under the Roads Acts 1993 to 2015.

In accordance with the provisions of the 2002 Act, TII shall notify the network operator, in writing, of the reason for any conditions contained in a consent.

It should be noted that, in considering an application for a consent, TII will have regard to the past performance of the network operator and/or any person engaged by the network operator in complying with conditions attached by TII to previous consents issued to the network operator concerned.

3.9 Road Reinstatement Costs.

In accordance with the provisions of section 53(19) of the 2002 Act, a network operator granted a consent by TII under section 53(3)(a) shall be responsible for all costs incurred in the reinstatement of a national road which the operator has opened for the purpose of:

- establishing underground electronic communications infrastructure and any associated physical infrastructure,
- extending the underground electronic communications network to parts of the national road under which electronic communications infrastructure has not previously been placed by that network operator,
- carrying out roadworks on underground electronic communications infrastructure, being maintenance, repair, replacement or the addition or removal of underground electronic communications infrastructure, or
- installing electronic communications infrastructure in ducts, which are the responsibility of TII.

to a standard satisfactory to TII.

3.10 Disclaimer and Indemnification.

- (a) Save as expressly provided under the 2002 Act, and Regulations made under the Act, Transport Infrastructure Ireland and its advisers, consultants, servants, contractors and/or agents shall not, under any circumstances, be liable, whether in contract, tort, by statute or otherwise and whether or not arising from any negligence on the part of TII, its advisers, consultants, servants, contractors and/or agents, for any claim or loss of any person arising out of, or in the course of, or in connection with, the use of any ducting along or under a national road.
- (b) Without prejudice to the generality of the foregoing, TII neither gives nor makes any representation, guarantee or warranty (express or implied) in relation to ducting along or under national roads (including in relation to its continuity, condition, existence, design and fitness for purpose).

Indemnification of TII and the road authority concerned is required in respect of all claims, proceedings, liabilities, losses or expenses of whatever nature, however arising, in connection with roadworks covered by consents under section 53(3) or section 53(4) of the 2002 Act. This must provide a minimum indemnity of €7m for a single incident/claim. The period of cover shall be from the start of the roadworks until the completion of the works in a manner satisfactory to TII having regard to the conditions specified in the consent relating to the roadworks concerned. Evidence of indemnification must be provided to TII by the network operator.

Part 4

Refusal/ Withdrawal of Consent.

4.1 Refusal of Consent.

TII will refuse an application for permission to carry out roadworks in circumstances where:

- (a) TII is satisfied that there is insufficient surplus duct capacity available to accommodate the establishment or extension of underground electronic communications infrastructure.
- (b) TII is of the view that the installation of the planned infrastructure would seriously compromise the capacity of the road to accommodate the planned installation at some future date of road-related services/infrastructure.
- (c) The past performance of the network operator and/or any person engaged by the network operator in complying with the provisions of this scheme and with any conditions attached by TII to a previous consent issued to the network operator has, in the opinion of TII, been unsatisfactory.
- (d) Invoices/ charges have not been paid in respect of previous consents issued by TII.
- (e) A moratorium on roadworks has been imposed by TII/the local authority on the national road in respect of which an application for a consent to undertake roadworks has been submitted.
- (f) The network operator is unable or unwilling to provide required indemnities to TII in respect of all claims, proceedings, liabilities, losses or expenses of whatever nature, however arising in connection with the proposed roadworks.

4.2 Withdrawal of Consent.

Where the holder of a consent fails to comply with any condition attached to the consent, TII may, if it considers it appropriate to do so, withdraw the consent. Written notice of such withdrawal will be given to the network operator to whom the consent was issued.

4.3 Appeal Procedure.

Sections 53(15), (16), (17) and (18) of the 2002 Act set out the procedures that apply in cases where TII proposes to refuse to grant consent, to grant consent subject to conditions, or to withdraw a consent in respect of roadworks. The sections concerned are reproduced at Appendix D. TII will comply with these provisions.

Part 5

Application of Charges.

5.1 Introduction.

In accordance with the provisions of the 2002 Act, certain charges may be imposed by TII on network operators in connection with applications and consents to carry out roadworks on national roads. The charges concerned are summarised in the following sections.

5.2 Consents for Roadworks in Urban Locations.

Charges/ deposits/ fees etc. arising from consents issued by TII in respect of roadworks on national roads in urban locations will normally be payable by the network operator to the road authority concerned. Details of the costs payable will be set out in the consent notification issued by TII. TII, however, reserves the right, at its absolute discretion, to apply additional charges to recover in full all reasonable costs, whether administrative, consultative or other, that may be directly incurred by TII in dealing with particular consent applications relating to national roads in urban locations.

5.3 Consents for Roadworks in Rural Non-Motorway/ Dual Carriageway Locations.

Similar arrangements to those set out in paragraph 5.2 will apply in respect of consent applications relating to non-motorway/ dual carriageway rural sections of national roads. However, having regard to the strategic importance of the roads concerned, as well as the need to ensure the structural integrity and the safety and operational efficiency of the road, consent applications for roadworks on these roads are likely to attract additional charges payable to TII. Such charges may, for example, include administrative fees and costs in connection with the supervision and monitoring of the works concerned.

5.4 Consents for Roadworks on Motorways and Dual Carriageways.

Charges payable to TII in respect of consents issued for roadworks on motorway and dual carriageway sections of national roads may include some or all of the following. Additional charges may also be payable to the road authority concerned.

- **Administrative Charges.**

Under section 53(8) of the 2002 Act, TII may impose charges on network operators for its administrative costs in processing an application for a consent and for monitoring compliance with consents.

- **Long Term Damage.**

Section 53(8) of the Act allows for the imposition of charges by TII in respect of reasonable costs TII may incur in making good long term damage to a national road as a result of road openings carried out by a network operator.

- **Charges for the Use of TII Ducts.**

In accordance with the provisions of section 53(9) of the Act, charges may be applied by TII for the use by network operators of ducts on national roads which are provided and made available by TII/the road authority (see paragraph 5.5).

- **Relocation Charges.**

In cases where national road improvement/ maintenance works require the relocation of electronic communications infrastructure that has been installed in national road ducts which are provided and made available by TII/the road authority, the network operators concerned are liable under section 55(2) of the 2002 Act for costs associated with the relocation of their infrastructure. The cost of relocating the duct(s) in such circumstances will be borne by TII.

Where electronic communications infrastructure has been installed in a duct provided by a network operator on or along a national road, TII will be liable for all relocation costs unless the network operator had been advised in the consent granted by TII that the road concerned was due to be improved within a period of 2 years of the date from which the operator intended to carry out the works. In such circumstances, TII is not liable for any relocation costs provided that the road improvement proceeded within that period.

5.5 Duration of Consents.

Consents issued by TII for roadworks relating to access to ducts along motorway and dual carriageway sections of national roads will typically operate for a period of 15 years from the date of finalization of the consent.

5.6 TII Charges Scheme.

The Minister for Transport has conveyed approval to the imposition of charges by TII under a scheme made in accordance with section 53(9) of the 2002 Act for the use of ducts on national roads which are provided and made available by TII/the road authority to network operators. In accordance with the Minister's approval, TII will apply a minimum charge of €1,600 plus VAT per cable/ subduct per km, or part

thereof, per year, or part thereof. The charges concerned may be adjusted annually in line with the Consumer Price Index taking December, 2011 as the base year.

Part 6

Emergency Roadworks.

6.1 Definition.

Emergency roadworks are defined in the 2002 Act as:

“roadworks necessary to eliminate or reduce danger or risk to persons or property.”

Electronic communications infrastructure related roadworks do not, therefore, generally qualify as emergency roadworks.

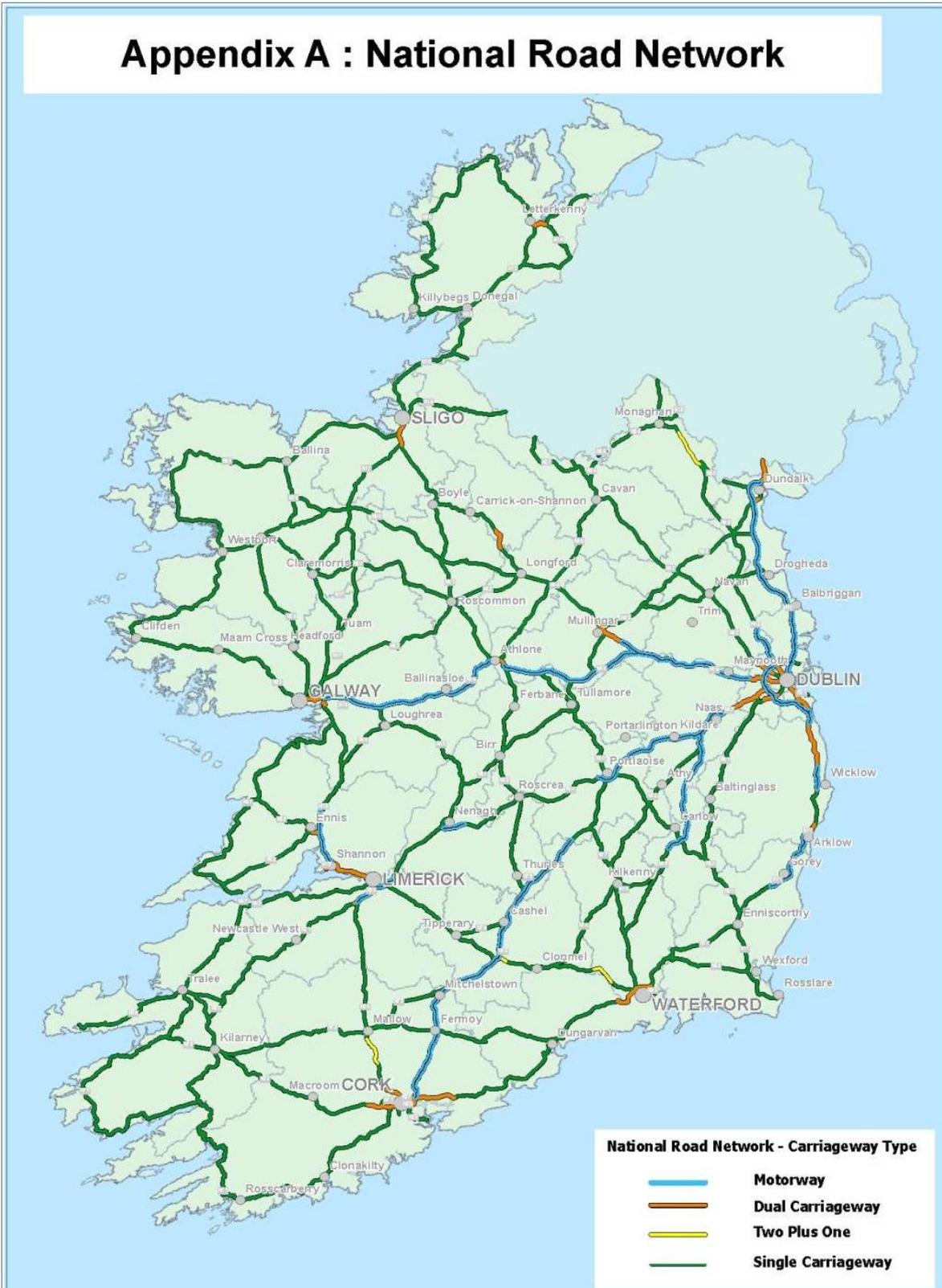
Network operators should ensure that any emergency roadworks carried out on national roads are undertaken in a manner that ensures the safety of road users and minimises impacts on the operational efficiency of the road.

6.2 Notification of Emergency Roadworks.

Notification of all emergency roadworks must be submitted to TII and the relevant road authority as soon as is practicable in advance of the commencement of the works.

TII may, in accordance with the provisions of section 53(4) of the 2002 Act, apply conditions in relation to the carrying out and completion of emergency roadworks.

Appendix A : National Road Network



INDICATIVE LOCATIONS OF DUCTING



Appendix C : PPP Schemes



Appendix D:

Appeal Procedure: Sections 53(15),(16),(17),(18) of the 2002 Act.

53(15) Where an authority proposes—

- (a) to refuse to grant consent,
- (b) to grant consent subject to conditions,
- Or
- (c) to withdraw a consent granted by it,

the authority shall notify the network operator concerned in writing of the proposal and shall include in the notification a statement of the reasons for the proposal and of the right of the network operator to make representations to the authority under subsection (16).

(16) A network operator may, within 21 days of the receipt by the operator of a notification under subsection (15), make representations to the authority concerned in relation to the proposal.

(17) Where an authority—

- (a) after consideration of any representations made to it by a network operator under subsection (16), or
- (b) does not receive representations from the network operator concerned within the period specified in subsection (16),

decides—

- (i) to refuse to grant consent,
- (ii) to grant consent subject to conditions,
- Or
- (iii) to withdraw its consent,

the authority shall, not more than 21 days after the expiration of the period specified in subsection (16), notify the network operator in writing of its decision and shall include in the notification a statement of the reasons for the decision and of the right of the network operator to appeal the decision under subsection (18).

(18) A network operator may, within 28 days of the receipt by the operator of a notification under subsection (17), appeal to the High Court against the decision concerned and the Court may—

- (a) confirm the decision,
- (b) amend the decision, or
- (c) direct the authority to grant the consent

or refrain from withdrawing consent, as the case may be.