

ROADS (MISCELLANEOUS PROVISIONS) ACT

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 which received Royal Assent on 13 August 2010. They have been prepared by the Department for Regional Development in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by the Assembly.
2. The Notes need to be read in conjunction with the Act. They do not, and are not meant to be, a comprehensive description of the Act. So where a section, or part of a section or Schedule does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The current framework for managing traffic restrictions and road closures to enable works on roads to take place is contained in various pieces of primary legislation for which the Department for Regional Development, as road authority, has responsibility. These are the Roads (Northern Ireland) Order 1993, the Street Works (Northern Ireland) Order 1995, the Road Traffic Regulation (Northern Ireland) Order 1997 and the Traffic Management (Northern Ireland) Order 2005.
4. The Department's functions as road authority are exercised, on its behalf, by Roads Service.
5. The Act introduces arrangements for a permit scheme to control certain works on roads and for the authorisation, largely by district councils, of certain events on roads. It also introduces, to the Road Traffic Regulation (Northern Ireland) Order 1997, a power to hold inquiries and it amends the Traffic Management (Northern Ireland) Order 2005 to take account of changes that have taken place in the functions of both the Lord Chancellor's Office and that of the Lord Chief Justice.

OVERVIEW

6. The Act introduces provisions for the management of:

Permit Schemes

7. These are intended to combat delays caused by works on roads that inevitably cause disruption and can often impact on journey times. Beyond the necessary works of the Department to maintain and develop the road network, utility openings alone are in excess of 35,000 in number each year.
8. The Street Works (Amendment) (Northern Ireland) Order 2007 introduced permit requirements in respect of street works (largely the works of utility companies). However, given the views of stakeholders the Department subsequently determined that those arrangements should be replaced with a wider scheme that would apply to additional specified works on roads.
9. The Act therefore repeals the street works permit scheme arrangements and provides a wider scheme to better control the timing and duration of certain works on roads.

Events on Roads

10. A number of events are held on roads throughout the year. Many of these are entertainment or sporting events, attracting, in some cases, international competitors and large numbers of spectators. There are also occasions when film production companies may need to have restrictions placed on traffic using a road to enable location filming to take place.
11. From a legislative perspective it was not clear to which authority applications should be submitted for road closures or the restriction of traffic to facilitate such events. As a result, the Department sought specific powers to clarify the situation.
12. In keeping with the Executive's vision for stronger local government here local councils were consulted about proposals to make them responsible for authorising local events on roads other than motorways. As a result, the Act contains arrangements for authorising certain events on roads, subject to the Department's consent as road authority.

Holding of Inquiries under the Road Traffic Regulation (Northern Ireland) Order 1997

13. A power to hold an inquiry into the exercise, by the Department for Regional Development, of any of its functions under the Road Traffic Regulation (Northern Ireland) Order 1997 has been included. It is aimed at ensuring procedural fairness in the Department's decision-making processes and providing an opportunity for concerned parties to make representations.

Giving effect to the reform of the Lord Chancellor's Office

14. The Constitutional Reform Act 2005 reformed the Office of the Lord Chancellor. The Act amends the Traffic Management (Northern Ireland) Order 2005 to take account of that reform.

Consultation

15. The Department consulted stakeholders and the wider public on its policy proposals between 3 December 2008 and 6 March 2009. 197 copies of the consultation document were issued to organisations, individuals and groups in the government/statutory, voluntary/community and business sectors. A further 347 organisations, groups and individuals were advised of the Department's policy proposals and were offered further information on request. A total of 29 responses were received, comprising 19 substantive responses and 10 offering no comment.
16. A copy of the Consultation Paper, the responses received and the Department's Consultation Report can be viewed at, <http://www.roadsni.gov.uk/index/consultations/consultations-2c.htm>.

COMMENTARY ON SECTIONS OF THE ACT

The Act contains 10 sections and 3 schedules. A commentary on them follows.

Section 1: Meaning of permit scheme

This section defines a permit scheme and outlines arrangements relating to permits that may be contained within such a scheme. For example, a scheme may prescribe the circumstances under which a permit is, or is not, required for the execution of works on roads and what conditions may be attached to a permit issued under such a scheme.

Section 2: Making, variation and revocation of schemes

Under this section, the Department may bring a permit scheme into operation, or change or revoke it, by order. Permit schemes must comply with any permit regulations made under section 3.

Section 3: Permit regulations

This section provides for the Department to make regulations concerning the content of schemes and the procedures to be followed in the making and operation of them. Regulations may, for example, make provision for offences and for fees payable in relation to the application for, or issue of, a permit and for the giving of fixed penalty notices.

Section 6: Prohibition or restriction of use of public roads in connection with special events

This section and schedule 1 provide a procedure enabling relevant authorities, with the consent of the Department, to close roads or restrict traffic using them to facilitate special events taking place on roads. Schedule 1 introduces those arrangements and inserts a new schedule 3A setting out the arrangements into the Road Traffic Regulation (Northern Ireland) Order 1997.

Schedule 1:

Paragraph 1 defines key phrases used in the schedule. It establishes which public authority ('the relevant authority') is responsible for authorising special events on roads: the Department may authorise the closure or restriction of special roads (usually motorways); local councils may, with the Department's consent, authorise the closure or restriction of all other public roads for special events to be held in their jurisdiction. While the term 'special event' is defined, other types of events that are not 'special events' are also identified.

Paragraph 2 sets out the circumstances under which an application to close or restrict traffic using a road for a special event may be approved. The Department, or a local council, may impose conditions on the event promoter. For example, a promoter would be required to obtain public liability insurance and to erect diversionary signs. Existing statutory provisions on the affected road may be changed or suspended for the duration of the event.

Paragraph 3 sets out the procedure to be observed by the relevant authority in making an order.

Paragraph 4 provides a discretionary power for authorities to recover their costs.

Paragraph 5 enables the Department to issue guidance for the information of councils and event promoters.

Paragraph 6 provides that it will be an offence to contravene a road closure or restriction, or for an event promoter to fail to comply with any condition imposed by the relevant authority. As set out in paragraph 5 of schedule 2, offences are to be prosecuted summarily with, respectively, a maximum fine of level 3 on the standard scale of fines (currently £1,000) and level 2 (currently £500) on the standard scale.

Schedule 2

This schedule sets out minor and consequential amendments required to other legislation as a result of the introduction of the Act.

Schedule 3

This paragraph identifies other legislative provision that will be repealed. It includes Article 12A of the Street Works (Northern Ireland) Order 1995 and Article 3 of the Street Works (Amendment) (Northern Ireland) Order 2007, which presently enable the Department to make a permit scheme in respect of street works on roads.

HANSARD REPORTS

17. The following table sets out the dates of the Hansard reports for each stage of the Act's passage through the Assembly.

STAGE	DATE
Introduction to the Assembly	18 January 2010
Second Stage Debate	26 January 2010
Committee Stage – presentation of research paper	27 January 2010
Committee Stage - evidence from Department for Regional Development	10 March 2010
Committee Stage – consideration of Sections 1 to 10, Schedules 1 to 3	19 May 2010
Committee's report on the Act – Report number 59/09/10R	26 May 2010
Consideration Stage in the Assembly	7 June 2010
Further Consideration Stage	15 June 2010
Final Stage	28 June 2010

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