



ROADS (MISCELLANEOUS PROVISIONS) BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial Memorandum has been prepared by the Department for Regional Development in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause, or part of a clause 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 Bill would introduce arrangements in relation to the authorisation of certain events on roads and for a permit scheme to control works on roads. It would also introduce, to the Road Traffic Regulation (Northern Ireland) Order 1997, a power to hold enquiries and would amend 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 Bill proposes to introduce provisions for the management of:

Events on Roads

7. 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 need to have restrictions placed on traffic using a road to enable location filming to take place.

8. The Department for Regional Development, in its role as road authority, was advised that there was some uncertainty about the identity of the appropriate authority to authorise such events and decided to clarify the situation.

9. In addition, on 31 March 2008, Minister Foster announced to the Assembly the Northern Ireland Executive's vision for the future, following implementation of the Review of Public Administration. One of the proposed measures was to make local councils responsible for authorising local events on roads.

10. Taking into account both of the foregoing issues the Bill contains arrangements that would make councils responsible for authorising certain events on roads.

Permit Schemes

11. In Northern Ireland roads are the medium through which the movement of people, goods and services for the social and economic benefit of all people is achieved.

12. Works on roads inevitably cause delay. Disruption and congestion often occur and journey times are adversely affected. 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.

13. The Public Accounts Committee's 2009 report on Road Openings by Utilities found that despite utilities having a statutory requirement to notify all road openings in advance, a pattern of late notifications remained. One of the effects of this is to compromise attempts to coordinate works of all kinds on roads.

14. The Department for Regional Development spent some £173m on the construction and improvement of roads and £91.2m on maintaining (including reconstruction, resurfacing and patching) this important public asset. Although some new roads have been constructed and a number of existing roads improved to cope better with traffic volumes (for example, the recently completed M1, M2 and Westlink schemes), often these types of works are simply not possible due to budgetary constraints.

15. The Northern Ireland Transport Statistics for 2008–9 reveal that there were 1,024,396 vehicles licensed in Northern Ireland at 31 December 2008 – an increase of 16,107 vehicles from the previous year. In 2008 the most frequently used method of travel to work in Northern Ireland was by car, van or minibus, with 83 per cent of the workforce interviewed in October to December using these methods.

16. Goods lifted on roads within Northern Ireland by goods vehicles over 3.5 tonnes between 2002 and 2007 increased from 48,116 tonnes in 2002 to 76,674 tonnes in 2007.

17. With the increasing volume of traffic using the road network there is a growing impact on road users, both private and commercial, caused by the execution of works on roads. 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 response to the consultation the Department determined that those arrangements should be replaced with a wider scheme that would apply to other works on roads.

18. The Bill would therefore repeal the street works permit scheme arrangements and provide a wider scheme to better control the timing and duration of works on roads.

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

19. 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 would ensure procedural fairness in the Department's decision-making processes and would provide an opportunity for concerned parties to make representations.

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

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

Consultation

21. The Department consulted stakeholders and the wider public on its policy proposals for a Roads (Miscellaneous Provisions) Bill between 3 December 2008 and 6 March 2009. Documents relating to the consultation, including a report on its findings, can be viewed at <http://www.roadsni.gov.uk/index/consultations/consultations-2c.htm>

22. The utility companies that responded to the consultation were not in support of the general principle of permit schemes. However, given that the Street Works (Northern Ireland) Order 1995 (as amended) had included similar arrangements in respect of works carried out by the utilities, they were content that these arrangements should be extended to others working on roads. Non-utility respondents generally welcomed the proposal.

23. All respondents broadly welcomed the proposal to introduce powers enabling councils to authorise the closure or restriction of traffic using roads to enable special events to take place.

24. Where respondents commented on proposals to introduce a general power to hold inquiries under the Road Traffic Regulation (Northern Ireland) Order 1997 and to give effect to the reform of the Lord Chancellor's Office by changing rule-making procedures contained within the Traffic Management (Northern Ireland) Order 2005, the proposals were welcomed.

OPTIONS CONSIDERED

Permits schemes for works on roads

25. Do nothing - the Department considered maintaining the status quo and not introducing any additional legislation to more effectively manage works on roads. However, given increasing volumes of traffic using the road network the level of disruption caused to road users by works on roads would be likely to increase.

26. Introduce a non-regulatory scheme - the Department also considered adopting a non-regulatory approach, with the introduction of a non-statutory code of practice. However, this was considered unlikely to be successful for two reasons. Firstly, no representative body exists to supervise its implementation beyond the utilities and, secondly, without enforcement provisions, it may would have been largely ineffectual.

27. It was therefore decided that the interests of the road user would be best served by the introduction of new statutory arrangements.

Prohibition or restriction on the use of roads in connection with special events

28. Do nothing – in view of the need to clarify the situation about which authority possesses the necessary powers to authorise such closures or restrictions, doing nothing was not really an option.

29. Vesting of new powers in the Department - the Department considered taking new powers to enable it to authorise such events with a discretionary power, to be exercised in the future, to devolve that function to local councils.

30. Vest new powers in councils - it was considered that councils would be best placed to make decisions on road closures for events in their own area. In addition, given the wishes of the Northern Ireland Executive to see local councils become responsible for events on roads under the Review of Public Administration it was decided to proceed with this option.

COMMENTARY ON CLAUSES

The Bill contains 10 clauses and 3 schedules. A commentary on them follows.

Clause 1: Meaning of permit scheme

This clause 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.

Clause 2: Making, variation and revocation of schemes

Under this clause, 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 clause 3.

Clause 3: Permit regulations

This clause provides for the Department to make regulations concerning the content of schemes and the procedures to be followed in the making and operation of schemes. The regulations may, for example, make provision for offences and for fees payable in relation to the application for or issue of a permit.

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

This clause provides a procedure enabling local councils, with the consent of the Department, to close roads or restrict traffic using them to facilitate special events taking place on roads. It introduces a new schedule 3A setting out the arrangements into the Road Traffic Regulation (Northern Ireland) Order 1997.

Schedule 1: Schedule to be inserted as schedule 3A to the Road Traffic Regulation (Northern Ireland) Order 1997

Paragraph 1: Interpretation

This paragraph 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 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 included in the new arrangements are also identified.

Paragraph 2: Prohibition or restriction on roads in connection with special events

This paragraph 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, such as speed limits or the direction of traffic, may be changed or suspended for the duration of the event.

Paragraph 6: Offences in relation to orders

It would 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 Department or council. As set out in schedule 2(5), 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 3: Repeals

This paragraph identifies other legislative provision that would 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.

FINANCIAL EFFECTS OF THE BILL

31. It is difficult to quantify the financial effects of the Bill. It is not anticipated that the authorisation of special events on roads would have a financial impact on councils or the Department as provision has been made for costs to be recovered from event promoters.

32. It is estimated that a permit scheme that would be applied to all roads could cost in the region of £3.2 Million while such a scheme applying to only the most traffic sensitive streets would cost some £700,000.

33. Introduction of a permit scheme would create an increase in workload for the Department and it is possible that some twenty to thirty additional staff may be required to manage it.

34. Different levels of charges could be applied for different types of permits. Charges would be determined by the nature of the works to be carried out, their duration and their anticipated impact on traffic flows. Consequently, the most expensive permits would be those required for major activities on heavily trafficked routes or in traffic-sensitive streets. It is proposed that permit-scheme income would cover the cost of administering the scheme which would, as a result, be self-financing.

35. There are no financial or resource costs associated with the amendments to the Road Traffic Regulation (Northern Ireland) Order 1997 or the Traffic Management (Northern Ireland) Order 2005.

HUMAN RIGHTS ISSUES

36. The introduction of a power to hold an inquiry into the execution of any of the Department's functions under the Road Traffic Regulation (Northern Ireland) Order 1997 will enhance the protection of human rights offered by the Order. The remaining provisions of the Bill are compatible with the European Convention on Human Rights.

EQUALITY IMPACT ASSESSMENT

37. An Equality Impact Assessment screening analysis was completed for each of the four proposals. No significant differential impacts were identified between any of the groups listed in section 75 of the Northern Ireland Act 1998. The screening forms were included in the policy consultation paper and no comments were received on equality issues. The Department concluded that full Equality Impact Assessments were not required on any of the proposals.

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

38. As the measures introducing inquiries and implementing the reform of the Lord Chancellor's Office are unlikely to impose new costs or savings on businesses, charities or the voluntary sector, a Regulatory Impact Assessment (RIA) was considered unnecessary.

39. Partial RIAs were completed in respect of proposals for permit schemes and road closures for special events. These were included in the policy consultation document.

40. A full RIA for the permit scheme will be carried out when the Department is preparing the scheme and draft permit scheme regulations. A full RIA will be prepared in respect of the special events provisions before the Department publishes guidance.

LEGISLATIVE COMPETENCE

41. The Minister for Regional Development had made the following statement under section 9 of the Northern Ireland Act 1998:

"In my view the Roads (Miscellaneous Provisions) Bill would be within the legislative competence of the Northern Ireland Assembly."

SECRETARY OF STATE CONSENT

42. The Secretary of State has consented under section 10(3)(b) of the Northern Ireland Act 1998 to the Assembly considering this Bill.

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