

Roads (Miscellaneous Provisions) Bill

[AS INTRODUCED]

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B I L L

TO

Provide for permit schemes to control the carrying out of works in roads; for prohibiting or restricting the use of roads in connection with special events; for inquiries in connection with the exercise of certain functions relating to roads; and for connected purposes.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

PART 1

PERMIT SCHEMES

Meaning of permit scheme

5 **1.**—(1) Any reference in this Part to a permit scheme is a reference to a scheme which is designed to control the carrying out of specified works in specified roads.

(2) A permit scheme may (in particular) include provision—

10 (a) for, or in connection with, requiring a permit to be obtained before specified works are carried out (including provision as to the persons who are required to obtain permits),

(b) for, or in connection with, the issue of permits (including provision with respect to applications for permits, provision for cases in which there is to be an entitlement to the issue of a permit and provision with respect to cases in which permits are to be deemed to be issued),

15 (c) as to cases in which specified works may be carried out without a permit,

(d) for, or in connection with, the imposition of conditions which are to apply in relation to the carrying out of specified works (including provision for, or in connection with, the attachment of such conditions to permits),

20 (e) for, or in connection with, the review or variation of permits or such conditions (including provision with respect to applications for such variations).

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(3) In this section “specified”, in relation to a permit scheme, means specified, or of a description specified, in the scheme.

Making, variation and revocation of schemes

2.—(1) The Department may prepare a permit scheme and in doing so must comply with permit regulations. 5

(2) A permit scheme shall not have effect unless the Department by order gives effect to it.

(3) An order under subsection (2)—

(a) must specify—

(i) a place where copies of the scheme may be obtained free of charge; 10

(ii) the date on which the scheme is to come into effect, and

(b) may (in accordance with permit regulations) include provisions which disapply or modify statutory provisions to the extent specified in the order.

(4) The Department may by order vary or revoke any permit scheme which for the time being has effect. 15

(5) An order under subsection (4)—

(a) may relate to one or more permit schemes,

(b) may vary or revoke any order under subsection (2), or any order previously made under subsection (4), 20

(c) may (in accordance with permit regulations) include provisions which disapply or modify statutory provisions to the extent specified in the order,

(d) may contain such incidental, supplementary, consequential or transitional provisions as the Department considers necessary or expedient. 25

Permit regulations

3.—(1) The Department may by regulations (“permit regulations”) make provision with respect to the content, preparation, operation, variation or revocation of permit schemes.

(2) Permit regulations may— 30

(a) set out procedural provisions with which the Department must comply in preparing permit schemes,

(b) set out standard provisions which may or must be included in a permit scheme,

(c) make provision as to the publicity to be given to permit schemes, 35

(d) make provision with respect to any of the matters mentioned in section 1(2) (including provision as to the conditions or types of conditions which may be imposed by virtue of section 1(2)(d)).

(3) Permit regulations may make provision—

(a) as to the criteria to be taken into account in the case of decisions with respect to the issue, review or variation of permits or decisions with 40

- respect to the imposition, review or variation of conditions under a scheme,
- (b) for, or in connection with, the determination, or facilitating the determination, of disputes (including provision with respect to the appointment of persons to determine, or facilitate the determination of, disputes),
- (c) for, or in connection with, appeals to the planning appeals commission,
- (d) as to the action which may be taken if works are carried out without a permit or if any conditions are not complied with,
- (e) for, or in connection with, the creation, in prescribed cases (including prescribed cases where works are carried out without a permit or in breach of any conditions), of a criminal offence triable summarily and punishable with a fine not exceeding level 5 on the standard scale,
- (f) for, or in connection with, excluding or limiting the liability of prescribed persons in prescribed cases,
- (g) for such incidental, supplemental, consequential or transitional matters as the Department considers necessary or expedient.
- (4) Permit regulations may make provision for, or in connection with, the giving of fixed penalty notices (including, in particular, provision applying Schedule 2A to the Street Works Order with or without modifications) in relation to any offence created by the regulations; and for this purpose “fixed penalty notice” means a notice offering a person the opportunity of discharging any liability to conviction for an offence by payment of a penalty.
- (5) Permit regulations may make provision for, or in connection with, the payment of a fee in respect of any one or more of the following—
- (a) an application for a permit,
- (b) the issue of a permit,
- (c) an application for the variation of a permit or the conditions attached to a permit,
- (d) the variation of a permit or the conditions attached to a permit.
- (6) Provision made under subsection (5) may include provision as to—
- (a) the amount or maximum amount of any fee,
- (b) cases in which fees are not to be payable or are to be repaid,
- (c) cases in which fees may be discounted,
- (d) the time and manner of making payment of fees,
- (e) the application of sums paid by way of fees.
- (7) Permit regulations may make provision—
- (a) for, or in connection with, the creation and maintenance of a register of permits,
- (b) with respect to access to information contained in any such register (including provision restricting such access).
- (8) Permit regulations may set out provisions—
- (a) which disapply or modify statutory provisions, and

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(b) which are to or may apply in the case of permit schemes.

(9) Nothing in subsections (2) to (8) is to be taken as affecting the generality of subsection (1).

(10) The first regulations under this section may not be made unless a draft of them has been laid before, and approved by a resolution of, the Assembly. 5

(11) Any other regulations under this section are subject to negative resolution.

Crown application

4. This Part binds the Crown; but nothing in this Part authorises the bringing of proceedings for a criminal offence against a person acting on behalf of the Crown.

Interpretation of Part 1 10

5. In this Part—

“condition” is to be construed in accordance with section 1(2)(d);

“in”, in the context of referring to works in a road, includes a reference to works under, over, across, along or upon a road;

“permit” is to be construed in accordance with section 1(2); 15

“permit scheme” is to be construed in accordance with section 1;

“permit regulations” is to be construed in accordance with section 3;

“prescribed” means prescribed, or of a description prescribed, by permit regulations;

“road” means— 20

(a) a road within the meaning of the Roads (Northern Ireland) Order 1993 (NI 15); and

(b) anything which (not being such a road) is a street within the meaning of the Street Works Order;

“the Street Works Order” means the Street Works (Northern Ireland) Order 1995 (NI 19); 25

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33);

“works” includes—

(a) street works within the meaning of the Street Works Order; and 30

(b) works for road purposes and major road works within the meaning of that Order.

PART 2

MISCELLANEOUS

Prohibition or restriction of use of public roads in connection with special events 35

6.—(1) The Road Traffic Regulation (Northern Ireland) Order 1997 (NI 2) is amended as follows.

(2) After Article 8 insert the following Article—

“Prohibition or restriction of use of public roads: special events

8A. Schedule 3A (which makes provision for prohibiting or restricting the use of public roads in connection with the holding of special events) shall have effect.”.

5 (3) After Schedule 3 insert the Schedule set out in Schedule 1 to this Act.

Inquiries

7. For Article 65 of the Road Traffic Regulation (Northern Ireland) Order 1997 substitute—

“Inquiries

10 65.—(1) Subject to paragraph (2), the Department may cause a public inquiry to be held in connection with the exercise of any of its functions under this Order.

(2) Paragraph (1) does not apply to the making of an order under Article 10, 13 or 15 if the sole effect of the order is to vary charges.

15 (3) For the purposes of any inquiry under paragraph (1), Schedule A1 to the Interpretation Act (Northern Ireland) 1954 (which applies in relation to such inquiries by virtue of section 23 of that Act) shall have effect as if the words “or may, if the Department so determines, be wholly or partly defrayed by the Department” were added at the end of paragraph 7(1) of that Schedule.

20 (4) Schedule 6 shall have effect in relation to any inquiry under paragraph (1) which is held in connection with the making by the Department of an order or a scheme under this Order.”.

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25 SUPPLEMENTARY

Minor amendments and repeals

8.—(1) The statutory provisions set out in Schedule 2 have effect subject to the minor and consequential amendments specified in that Schedule.

30 (2) The statutory provisions set out in Schedule 3 are repealed to the extent specified in the second column of that Schedule.

Commencement

9.—(1) Except as provided by subsection (2), this Act comes into operation on the day after that on which it receives Royal Assent.

35 (2) The following provisions come into operation on such day as the Department may by order appoint—

(a) section 6;

(b) Schedule 1;

(c) in Schedule 2, paragraphs 3 to 5 and 6(1) and (2) (and Article 8(1) so far as relating to those paragraphs);

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(d) in Schedule 3, the entries relating to the Street Works (Northern Ireland) Order 1995 and the Street Works (Amendment) (Northern Ireland) Order 2007 (and Article 8(2) so far as relating to those entries).

Short title

10. This Act may be cited as the Roads (Miscellaneous Provisions) Act 5
(Northern Ireland) 2010.

SCHEDULES

SCHEDULE 1

Section 6.

SCHEDULE TO BE INSERTED AS SCHEDULE 3A TO THE ROAD
TRAFFIC REGULATION (NORTHERN IRELAND) ORDER 1997

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“SCHEDULE 3A

PROHIBITION OR RESTRICTION OF USE OF PUBLIC ROADS: SPECIAL
EVENTS

Interpretation

- 1.—(1) This paragraph applies for the purposes of this Schedule.
- 10 (2) Subject to sub-paragraph (3), a “special event” is—
- (a) any sporting event, social event or entertainment which is held on a public road; or
 - (b) the making of a film on a public road.
- (3) The following are not special events —
- 15 (a) a public procession (within the meaning of the Public Processions (Northern Ireland) Act 1998);
- (b) a motor race falling within the Road Races (Northern Ireland) Order 1986 (motor races on roads);
- 20 (c) a race or trial falling within Article 45 of the Road Traffic (Northern Ireland) Order 1995 (cycle racing on roads).
- (4) The “relevant authority”—
- (a) for a special road, is the Department;
 - (b) for any other public road, is the district council for the district in which the road is situated.
- 25 (5) Where the special event is the making of a film, references to the holding of the event are to be read as references to the making of the film.
- (6) References to the promoter, in relation to a special event, are references to the person organising the event.
- (7) References to an order are to an order under paragraph 2.
- 30 (8) A public road is “affected” by an order or proposed order if the order contains or would contain provisions restricting or prohibiting the use of the road.

Prohibition or restriction on public roads in connection with special events

2.—(1) Sub-paragraph (2) applies if the relevant authority for a public road is satisfied that—

- (a) traffic on the road should be restricted or prohibited for the purpose of—
 - (i) facilitating the holding of a special event,
 - (ii) enabling members of the public to watch a special event, or
 - (iii) reducing the disruption to traffic likely to be caused by a special event; and
- (b) it is not reasonably practicable for the event to be held otherwise than on a public road.

(2) The relevant authority may by order restrict or prohibit temporarily the use of that road, or any part of it, by vehicles or vehicles of any class or by pedestrians, to such extent and subject to such conditions or exceptions as it may consider necessary or expedient.

(3) An order may relate to the public road on which the special event is to be held or to any other public road.

(4) No order shall be made with respect to any public road which would have the effect of preventing at any time access for pedestrians—

- (a) to any premises situated on or adjacent to the road, or
- (b) to any other premises accessible for pedestrians from, and only from, the road.

(5) An order may suspend or modify any statutory provision relating to the affected road or its use by traffic or pedestrians.

(6) An order may contain provision —

- (a) requiring the promoter to insure against such risks in connection with the holding of the event on a public road as the relevant authority may specify;
- (b) requiring the promoter to produce to the relevant authority such certificates as it may require as to the safety of any structures, equipment or other apparatus to be used in association with the special event;
- (c) requiring the promoter to erect such barriers and place such signs in such places on or in the vicinity of any affected road as the relevant authority may specify;
- (d) requiring any such barriers and signs to be erected no earlier than, and removed no later than, such times as the relevant authority may specify;
- (e) requiring the promoter to comply with such other conditions as may be specified in the order.

(7) A district council may not make an order except with the consent of the Department.

Procedure for making orders

3.—(1) An order shall not be made except on an application made to the relevant authority by the promoter of the special event.

(2) An application shall be in writing and give such details of the event as the relevant authority may require.

(3) Where—

(a) an application for an order is made to a relevant authority, and

(b) the relevant authority is minded to make an order,

the relevant authority shall publish in at least one local newspaper circulating in the district in which any affected road is situated a notice complying with paragraph (4).

(4) The notice must—

(a) identify the promoter of the special event;

(b) identify any affected road;

(c) specify any restrictions or prohibitions which the relevant authority proposes to include in the order;

(d) specify the dates on which and times between which the restrictions or prohibitions would apply;

(e) specify any alternative routes for traffic or pedestrians;

(f) state the address where copies of the application may be inspected by any person free of charge at all reasonable times;

(g) state that representations in writing may be sent to the relevant authority within such period as is specified in the notice (not being less than 21 days from the date of the last publication of the notice) at such address as is so specified.

(5) Before making an order the relevant authority must consult—

(a) the district commander of the police district in which any affected road is situated;

(b) the Northern Ireland Fire and Rescue Service;

(c) the Northern Ireland Ambulance Service.

(6) When considering whether to make an order, the relevant authority must—

(a) consider any representations made in accordance with a notice published under sub-paragraph (3) and the outcome of consultations under sub-paragraph (5);

(b) have regard to the safety and convenience of alternative routes suitable for traffic and pedestrians affected by the order; and

(c) if the relevant authority is a district council, also have regard to any guidance issued by the Department under paragraph 5.

Recovery of certain costs

4. The relevant authority may recover from the promoter the whole of the costs incurred by the relevant authority in connection with or in

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consequence of the making of an order, including in particular the cost to the relevant authority of complying with the requirement in paragraph 3(3) to publish notices.

Guidance

5. The Department may issue guidance— 5
- (a) to district councils as to the exercise of their functions under this Schedule; and
 - (b) to promoters of events as to the procedure for making an order and as to the conduct of events in relation to which an order has been made. 10

Offences in relation to orders

- 6.—(1) A person who contravenes, or who uses or permits the use of a vehicle in contravention of, a restriction or prohibition imposed by an order is guilty of an offence.
- (2) A promoter who fails to comply with any requirement imposed under paragraph 2(6) is guilty of an offence.” 15

Section 8.

SCHEDULE 2

MINOR AND CONSEQUENTIAL AMENDMENTS

The Towns Improvement (Ireland) Act 1854 (c. 103)

1. Section 70 (obstruction of streets) shall cease to have effect. 20

The Belfast Corporation Act (Northern Ireland) 1930 (c. ii)

2. Section 59 (closure of certain streets) shall cease to have effect.

The Statutory Rules (Northern Ireland) Order 1979 (NI 12)

3. In Schedule 3 (statutory rules exempt from requirements as to printing and sale) in paragraph 7A after “66 of” insert “, or Schedule 3A to,”. 25

The Roads (Northern Ireland) Order 1993 (NI 15)

4. In Article 71(2) (erection of structures on roads) after sub-paragraph (c) insert “or
- (d) in connection with the holding of an event in connection with which an order has been made under Schedule 3A to the Road Traffic Regulation (Northern Ireland) Order 1997,”. 30

The Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10)

5. In Part 1 of Schedule 1 (offences) at the end of the entries relating to the Road Traffic Regulation (Northern Ireland) Order 1997 insert—

Schedule 3A, paragraph 6(1)	Contravention of prohibition or restriction imposed by order.	Summarily.	Level 3 on the standard scale.	—	—	—	35
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Schedule 3A, paragraph 6(2)	Failure to comply with requirement imposed under paragraph 2(6).	Summarily.	Level 2 on the standard scale.	—	—	—
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The Road Traffic Regulation (Northern Ireland) Order 1997 (NI 2)

- 5 6.—(1) In Article 9(1), (2) and (3) for “this Part” substitute “Articles 4 to 8”.
- (2) In Article 69 (trolley vehicles) after “7,” insert “8A,”.
- (3) In Schedule 6 (inquiries), in paragraph 1(1) for “under this Order” substitute
“in connection with the making by the Department of an order or scheme under
this Order”.
- 10 (4) In Schedule 6, at the end add—
- “3. Where the inquiry has been held, the Department may, after
considering the report of the person who held the inquiry—
- (a) determine to make the order or scheme; or
- (b) make the order or scheme either without modification or subject to
15 such modifications as the Department thinks fit.”.

The Traffic Management (Northern Ireland) Order 2005 (NI 14)

- 7.—(1) In Article 16(3) (statutory declaration to contain such additional matters
as Lord Chancellor may determine) after “may” insert “after consultation with the
Lord Chief Justice”.
- 20 (2) In Article 30(1) (Lord Chancellor may make regulations as to procedure
before adjudicators) after “may” insert “after consultation with the Lord Chief
Justice”.

SCHEDULE 3

REPEALS

Short Title	Extent of repeal
The Towns Improvement (Ireland) Act 1854 (c. 103)	Section 70.
The Belfast Corporation Act (Northern Ireland) 1930 (c. ii)	Section 59.
The Street Works (Northern Ireland) Order 1995 (NI 19)	Article 12A. In Article 59(1) the words “12A(8),”.
The Road Traffic Regulation (Northern Ireland) Order 1997 (NI 2)	In Schedule 1, paragraph 4. In Schedule 2, paragraph 5. In Schedule 4, paragraph 4. In Schedule 4A, paragraph 4.

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Short Title	Extent of repeal
The Street Works (Amendment) (Northern Ireland) Order 2007 (NI 1)	In Schedule 5, paragraph 4. Article 3.

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