

Traffic Management Act: New Road and Street Works Act - New Regulations

Report of the Director of Environment, Economy and Culture

Please note that the following recommendation is subject to consideration and determination by the Committee before taking effect.

Recommendation: It is recommended that this report be noted.

1. Summary

This report considers incoming regulations which will enable Highway Authorities to better co-ordinate activities on the highway and enforce infringements.

2. Background/Introduction

In 1993 The New Roads and Street Works Act 1991 (NRSWA) was enacted which was designed to ensure that services in new roads would be provided to a common standard and the placing of that apparatus could be regulated. The Statutory Undertakers are also required to be self regulating.

Demand for road space is now at a premium, with over 200 utility companies (following de-regulation and the right to trade), re-development of urban brown field sites, increases in traffic volumes and the customer need to travel un-interrupted anywhere and at any time.

The Traffic Management Act 2004 (TMA) was introduced with the main objective of 'keeping traffic moving'. New regulations are to be introduced to enable better planning and co-ordination of activities on the public highway.

A report to the Executive on 28 September 2004 entitled 'Department for Transport Consultation: Network Management Duty Guidance' (ED/04/212/HQ), referred to the new Network Management Duty being placed upon highway authorities, which states that 'as far as reasonably practicable, to secure the expeditious movement of traffic on its road network and to facilitate it on the networks of others'.

A requirement of the Duty was to appoint a 'Traffic Manager' which is a statutory appointment.

In response to this requirement, the Executive agreed to establishing the Traffic Managers Unit with a brief to plan and co-ordinate, monitor and enforce as deemed necessary.

There are 10 Enforcement Officer posts on the establishment who monitor activities on the road network and intervene as deemed necessary. There are currently two vacancies.

More recently, the Traffic Management Policy Team has joined the TMU which provides an all round ability to look at all aspects of network management.

3. Proposal

New Regulations: The Street Works (Registers, Notices, Directions and Designations)(England) Regulations

The Noticing Regulations which accompany the Traffic Management Act 2004 were laid in parliament on 11 July 2007 and will come into force on 1 April 2008. The regulations are accompanied by a Statutory Code of Practice and the Technical Specification for Electronic Transfer of Notices (EToN).

NRSWA does not require local authority road works to be notified in the same way as utility works (although they do need to be registered), the Code of Practice recommends that the same process is used for both utility and highway works.

Key elements of the new Regulations are:

- All streetwork registers to be based on GIS by 1 April 2009 and available on the internet.
- Greater emphasis on the provision of forward planning information for longer term planned works to help co-ordination and the use of early starts.
- The provision to designate a road as traffic sensitive by agreement.
- To direct on the timing and duration of works.
- To direct an undertaker not to place new apparatus in a specific street.
- To extend the protection of a street following substantial roadworks or streetworks.
- To limit the period in which an undertaker must complete the permanent reinstatement (will be "as soon as reasonably practicable, and in any event within six months of the completion of the interim reinstatement").
- The Code of practice reiterates the duty of the Undertaker to co-operate with the highway authority.

Definition of works and notice periods

The new regulations classify works as: Major, standard and minor works.

In general:

- Major works are works generally identified in advance in an organisation's annual operating programme or expected to last at least 11 days, or works which require a temporary traffic order (e.g. to close the street) under the Road Traffic Regulation Act 1984.
- Standard works are between 4 and 10 days duration.
- Minor works are works of less than three days duration or less.
- Immediate works are emergency works (as defined by section 52 of NRSWA) and urgent works.

Table 1: Notice periods

	Advance notice (s54 NRSWA)	Notice of start of works (s55/57 NRSWA)
Major	3 months	10 days before proposed start
Standard	n/a	10 days before proposed start
Minor	n/a	3 days before proposed start
Immediate	n/a	within 2 hours of work starting

A follow-up consultation is proposed later in 2007 for Charges for Unreasonably Prolonged Occupation of the Highway. It is envisaged that despite this late consultation the regulations will be ready to come into force at the same time as those for notices.

Restrictions on work

At present, section 58 of NRSWA allows a street authority to place an embargo on utilities carrying out any street works (except certain exempted categories) in a specific street after the completion of substantial road works or streetworks. The TMA amends s58 of NRSWA so that the maximum period of any embargo can be set out in regulations (section 58 previously limited this to 12 months) and under the regulations this period can be up to five years following reconstruction of a highway. The authority will then inform other undertakers and invite them to submit notices for proposed works in that street, so that they can be completed in advance of the restriction.

Directions

Devon County Council can direct (within specific constraints) a Utility to carry out works on certain days and certain times of day if believes that proposed works will, or is causing serious disruption.

However, it cannot affect the right of an undertaker to execute emergency works.

Trench sharing

Trench sharing is to be promoted, however this may not always be possible for technical reasons. The primary promoter takes all the responsibility of excavating the trench and backfilling and re-instating after the secondary promoter has installed its apparatus and is also responsible for ensuring that the works do not overrun in order to avoid s74 charges.

Dissemination of information and IT requirements

The regulations require that all streetwork registers be based on GIS by 1 April 2009. Street authorities are strongly recommended to publish the register on their public website but are warned not to display confidential information such as names and telephone numbers of contacts in organisations, which are given in notices and other restricted information on websites and to keep this information confidential.

Fixed Penalty Notices

This will enable street authorities to regulate the quality of notices submitted by Utilities. The quality of the information provided by notices is essential to aid co-ordination of works.

Permits

Permit schemes enable an authority to direct, quite specifically, what a Utility may or may not do at a particular site. Whilst the intention is to provide greater control over activities on the highway, permit schemes require every permit to be responded to, otherwise the permit is deemed approved. There is no intention by DCC to move to a permit scheme at present.

Civil Parking Enforcement

Part 6 of the TMA, when enacted, will provide for a Local Traffic Authority to make an application to the Secretary of State for Transport for powers for the civil enforcement of on street parking, bus lanes and some moving traffic offences, thus relieving the police of this responsibility.

The Government is implementing the provisions in Part 6 in stages, beginning with parking regulations which are expected to come into force in May 2008. Devon and Cornwall Constabulary has written to the leader of the County Council to give notice of intention to withdraw traffic warden resources in Devon and Cornwall by March 2008.

CPE is seen as a major contributor to minimising disruption and congestion due to illegal or inappropriate parking, in particular on key transport routes.

4. Consultations/Representations

All of the new legislation coming into force has been through statutory consultations to which Devon County Council has been or will be a party too.

5. Financial Considerations

The introduction of FPN's will see an overall benefit the authority, through immediate fines and a reduction in Magistrates Court appearances.

Improved direction of activities on the highway should see a reduction in lost travel time due to roadworks, thus benefiting the local economy.

Better dissemination of planned roadworks via the internet will enable travellers to make informed decisions about how they travel about the county, thus supporting the local economy.

6. Sustainability Considerations

The co-ordination of works can have a significant benefit to the environment (e.g. Directing two companies to work simultaneously. This will reduce disruption to the travelling public and reduce the damage to the structure of the highway.

7. Carbon Impact Considerations

The TMA is proposed to try and co-ordinate and control the movement of traffic on the highway network. It is not proposed to reduce it significantly. Therefore there should be a neutral effect on the carbon emission effect.

8. Equality Considerations

The new regulations will be applied equally to all Utilities operating on the public highway. The same rules will also be applied to the Devon County Council contractors.

9. Legal Considerations

None.

10. Discussion

Devon County Council is the Traffic Authority and will be implementing the TMA. On objective of the TMA is 'parity', that is to say that we work form a level playing field. In order to achieve this Devon County Council have included the requirements of the TMA within the Term Maintenance Contract, accordingly, all such penalties and duties will be applied to Devon County Council works.

11. Options/Alternatives

N/A.

12. Reason for Recommendation/Conclusion

N/A.

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Electoral Divisions: All

Local Government Act 1972

List of Background Papers

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Background Paper	Date	File Ref.
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None

mp200807nda
sn/traffic management act
2 hq 271107

**Appendix I
To EEC/07/349/HQ**

Timetable for the Implementation of the TMA (Parts 2 and 3)

	Estimated date for full public consultation	Estimated date of laying/making regulations	Estimated date of regulations coming into force
Guidance on Intervention Criteria	July - September 2006	March 2007	March 2007
Notices, Directions and Restrictions	October - November 2006	Summer 2007	Early 2008
Fixed Penalty Notices	October - November 2006	Summer 2007	Early 2008
Section 74 Over Staying Charges	October - November 2006	Summer 2007	Early 2008
Permits	November 2006 - February 2007	Summer 2007 *	Early 2008 *
Civil Parking Enforcement	July - September 2006	Mid 2007 *	Early 2008 *
Civil Bus lane and moving traffic enforcement	TBC	TBC	TBC
Inspection of Blue Badges		Mid 2006	September 2006