

POLICY NOTE

THE TRAFFIC REGULATION ORDERS (PROCEDURE) (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2021

SSI 2021/348

The above instrument was made in exercise of powers conferred by section 124 and part III of schedule 9 of the Road Traffic Regulation Act 1984.

This instrument is subject to negative procedure.

Purpose of the instrument.

These Regulations set out revised new procedure for experimental traffic regulation orders (ETROs). The changes will allow an authority to put a scheme in place on whilst they consider objections. There is also a shortened process to allow an authority to make the measures permanent at the end of the consultation period should they wish to do so and having properly considered any objections and Reporters findings (if applicable).

These changes allow traffic authorities greater flexibility when considering and promoting ETROs.

Background and Policy Objectives

These Regulations amend the Local Authorities' Traffic Order (Procedure) (Scotland) Regulations 1999 and the Secretary of State's Traffic Regulation Orders (Procedure) (Scotland) Regulations 1987, both of which set out the procedures that traffic authorities must follow in relation to promoting and making ETROs.

Traffic authorities in Scotland already have powers to make ETROs under section 9 of the Road Traffic Regulation Act 1984 for the purpose of carrying out an experimental scheme of traffic control and these could have effect for up to 18 months. Local authorities however considered they offer little benefit as the procedure for such orders did not provide for a proper way to consult and modify along the way if required. This was backed up by the findings of a TRO Review Group, set up by the Scottish Government, which concluded that they were very rarely used in Scotland. Additionally, if a local authority considered there was suitable justification for the ETRO measures to become permanent, a further full TRO process needed to be undertaken which could potentially allow concerns already addressed to be made again by objection and could lead to a time consuming and costly Public Local Inquiry.

These Regulations will change the procedure relating to making ETROs and introduce a new procedure for making orders giving permanent effect to certain ETROs.

In particular, the amendments made by these Regulations remove the requirement for publication of a proposal to make an ETRO before making it together with the ability to make objections to the making of the order. Objections may be made to the making of an order to give permanent effect to an ETRO within the period of 6 months from the date on which the corresponding ETRO came into force. This allows objections to be dealt with while ETRO schemes are on the ground.

If the ETRO is to be made permanent, a new procedure for making such permanent order has also been created, dispensing with the requirement for consultation and objection period, provided that the relevant ETRO has been in force for at least 6 months, that it has not been modified more than 12 months after it was made and that all other applicable procedural requirements have been met in respect of it.

Consultation

In accordance with section 134(2) of the Road Traffic Regulation Act 1984, the Scottish Ministers have consulted relevant representative organisations. In particular, a TRO review group was established consisting of the Convention Of Scottish Local Authorities (COSLA), Society of Chief Officers of Transportation in Scotland (SCOTS) and a number of traffic authorities and other interested parties to identify proposals to make the ETRO process more efficient and worthwhile in Scotland. Having listened to the findings and identified the main proposals a public consultation was held between the 4 June 2021 and the 30 July 2021 to which a total of 450 responses was received.

In relation to ETROs it was clear from the consultation responses that many individuals, organisations and local authorities were not content with the existing regulations, (71%).

What was less clear was whether there was agreement with our proposals to seek to make amendments to the procedure for making ETROs and TROs which give permanent effect to ETROs (56% disagreed, 43% agreed). The response to this question from local authorities was however almost unanimous with only one out of the 26 (out of 32 local authorities in Scotland) disagreeing. It was clear however that a number of the individual respondents (116 out of 318, 37%) were basing their answers on the recent Spaces for People projects put on the ground by the City of Edinburgh Council rather than the overall ETRO process. None of those projects were done under ETRO powers but Temporary Traffic Regulations Orders as an emergency response to Covid-19.

Having evaluated the findings of the public consultation and the representations made by the TRO review group the policy decision was taken to amend the procedures associated with ETROs and relevant permanent TROs.

Impact Assessments

A Business and Regulatory Impact Assessment (BRIA), Pre Screening Report for Environmental Impact Assessment (SEIA), Pre Screening Report Island Communities Impact Assessment and partial Fairer Scotland Duty Impact Assessment have been completed.

Financial effects

This SSI will have no additional direct financial effect on the Scottish Government or local authorities as a result of the changes in the regulations.

Transport Scotland

29 September 2021