
 STATUTORY INSTRUMENTS

1978 No. 932

ROAD TRAFFIC

**The Control of Road-side Sales Orders (Procedure)
Regulations 1978**

Made - - - - - 4th July 1978

Laid before Parliament 12th July 1978

Coming into Operation 2nd August 1978

The Secretary of State for Transport (as respects England) and the Secretary of State for Wales (as respects Wales), in exercise of the powers conferred by section 84C(2) to (5) and (6) of the Road Traffic Regulation Act 1967(a), as applied by section 7(3) of the Local Government (Miscellaneous Provisions) Act 1976(b), and now vested in them(c), and of all other enabling powers, and after consultation with the Greater London Council in accordance with section 84C(4) of the said Act of 1967 (so far as these Regulations relate to orders made by that Council) and with representative organisations in accordance with section 107(2) of the said Act of 1967, hereby make the following Regulations:—

PART I

GENERAL

Citation and Commencement

1. These Regulations may be cited as the Control of Road-side Sales Orders (Procedure) Regulations 1978, and shall come into operation on 2nd August 1978.

Interpretation

2.—(1) In these Regulations the following expressions have the meanings hereby respectively assigned to them:—

“the Act” means the Local Government (Miscellaneous Provisions) Act 1976;

“the 1967 Act” means the Road Traffic Regulation Act 1967;

“the authority” in relation to a control order, means the highway authority making, or proposing to make, the order under section 7 of the Act;

(a) 1967 c. 76.

(b) 1976 c. 57.

(c) As respects the Secretary of State for Transport—S.I. 1970/1681.

“control order” means an order under section 7(1) or (2) of the Act and, when used in relation to anything occurring or falling to be done before the making of the order, refers to the order as proposed to be made or, when used in relation to anything occurring or falling to be done on or after the making of the order, refers to the order as made;

“controlled highway”, in relation to a control order, means a highway to which the control order relates;

“fronting”, in relation to a highway, includes abutting;

“highway” has the meaning given by section 44(1) of the Act;

“local newspaper”, for the purposes of the procedure for a control order relating to any highway in Greater London, includes any newspaper published in Greater London and circulating throughout the whole of Greater London (whether or not that newspaper also circulates outside Greater London);

“the notice of proposals” and “the notice of making”, in relation to a control order, mean respectively the notices required to be published under Regulations 5 and 15 below;

“the objection period” means the period within which objections to a control order may be made in accordance with Regulation 6 below;

“owner” has the meaning given in section 44(1) of the Act.

(2) Any reference in these Regulations to a control order as relating or applying to a highway or to a length of highway includes a reference to a control order as relating or applying to land within 15 metres from any part of that highway or that length, as the case may be.

(3) Any reference in these Regulations, in relation to a control order, to premises fronting on a controlled highway is a reference—

(a) where the control order applies to—

(i) the whole of the width of the highway, or

(ii) land on both sides of the highway,

along a particular length of that highway, to premises situated on both sides of the highway and fronting on that particular length,

(b) where the control order applies to—

(i) a part only of the width of the highway and on one side thereof, or

(ii) land on one side only of the highway,

along a particular length of that highway, to premises situated on the side to which the control relates and fronting on that particular length.

(4) Any reference in these Regulations to any enactment is a reference to that enactment as amended by or under any subsequent enactment.

(5) The Interpretation Act 1889(a) shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

Application of Regulations

3. These Regulations apply to control orders made or proposed to be made by a highway authority.

PART II**PROCEDURE BEFORE MAKING THE ORDER***Consultation***4.—(1) Before making a control order the authority—****(a) if the Secretary of State, shall consult—**

- (i) in a case involving a controlled highway in Greater London, with the Greater London Council and also with the council of the London borough or, as the case may be, the Common Council of the City, in which the highway is situated, and
- (ii) in a case involving a controlled highway elsewhere, with the councils of the county and of the district in which the highway is situated; and

(b) if a local highway authority, shall consult—

- (i) in a case involving a controlled highway in Greater London, with the Greater London Council when the order is proposed to be made by a London borough council or the Common Council of the City or with the council of the London borough or, as the case may be, the Common Council of the City, in which the highway is situated when the order is proposed to be made by the Greater London Council, and
- (ii) in a case involving a controlled highway elsewhere, with the council of the district in which the highway is situated.

(2) The consultation referred to in paragraph (1) above is additional to the consultation with the chief officer of police required by section 84C(1) of the 1967 Act.

*Publication of proposals***5. After the consultations referred to in Regulation 4 above but before making the control order the authority shall:—**

- (a) publish once at least in a local newspaper circulating in the area in which any controlled highway is situated a notice of proposals containing the particulars specified in Part I of Schedule 1 to these Regulations;
- (b) comply with the relevant requirements of Schedules 2 and 3 to these Regulations as to the display of notices in each controlled highway and as to the availability of documents for inspection;
- (c) serve a copy of the notice of proposals, so far as they relate to any particular highway, on the owners and occupiers of the premises fronting on that highway.

Objections

6.—(1) The period during which objections to the control order can be made shall begin not earlier than the date on which the authority have complied with the requirements of paragraphs (a) and (c), and have begun to display the notices required by paragraph (b), of Regulation 5 above, and shall continue for not less than 21 days.

(2) Any person desiring to object to the authority's proposal to make the order shall send within the period, and to the address, specified in the notice of proposals published as required by Regulation 5 above a written statement of his objections and of the grounds thereof.

Public inquiries

7.—(1) Before making the control order the authority may hold a public inquiry in connection with that order.

(2) The authority, if a local highway authority, shall appoint as the person to hold the public inquiry a person selected by them from a panel of persons chosen by the Secretary of State for the purpose of holding public inquiries under Regulations made under section 84C of the 1967 Act.

Notice of public inquiry

8.—(1) Where a public inquiry is to be held in connection with a control order, the authority shall, after complying with the requirements of Regulation 5 above and after the end of the objection period :—

- (a) publish once at least in a local newspaper circulating in the area in which any controlled highway is situated a notice of the inquiry containing the particulars specified in Part II of Schedule 1 to these Regulations;
- (b) comply with the relevant requirements of Schedules 2 and 3 to these Regulations as to the display of notices in each controlled highway and as to the availability of documents for inspection;
- (c) not later than the date of the first publication of the notice required by sub-paragraph (a) above, inform in writing any person who has objected to the order in accordance with Regulation 6 above and who has not withdrawn the objection, of the date, time and place of the inquiry.

(2) There shall be at least 21 days between the date on which the requirements of paragraph (1) above have been complied with and the date on which the inquiry is due to begin.

Procedure at public inquiry

9.—(1) Any person interested in the subject matter of a public inquiry may appear at an inquiry either in person or by counsel, solicitor or other representative.

(2) Any person so interested may, whether or not he proposes to appear at the inquiry, send to the person appointed to hold the inquiry, at the address given in the notice of proposals for the receipt of objections, such written representations as he may wish to make in relation to the subject matter of the inquiry with a view to their consideration by that person at the inquiry.

(3) The person holding the inquiry may refuse to hear any person, or to consider any objection or representation made by any person, if he is satisfied that the views of that person or the objection or representation are frivolous or that such views have already been adequately stated by some other person at the inquiry.

(4) Subject as aforesaid, the procedure at the inquiry shall be in the discretion of the person holding it.

Consideration of objections

10. Before making the control order the authority shall consider all objections duly made in accordance with Regulation 6 above and not withdrawn and also the report and recommendations (if any) of the person holding any public inquiry in connection with the order.

Modifications

11. The authority may make the control order with modifications (whether in consequence of any objections or otherwise), but where proposed modifications appear to the authority substantially to affect the character of the order, they shall, before making the order, take such steps as are reasonably required for informing persons likely to be concerned of the effect of the modifications and for giving to those persons an opportunity to make representations in connection therewith and shall consider all such representations which are made to them.

PART III

THE FORM OF THE ORDER

Form of the order

12.—(1) The control order shall describe each controlled highway to which it relates so that the length of such highway to which the control relates can be ascertained without difficulty.

(2) Such description may be by reference to a map.

Operative date of the order

13.—(1) The control order shall specify the date on which it comes into operation or, in a case where different operative dates are provided for different provisions of the order, each of the dates on which a provision of the order comes into operation.

(2) No date on which an order, or a provision of an order, comes into operation shall be earlier than the date on which the notice of the making of the order is published in the local newspaper under Regulation 15 below.

PART IV

MAKING THE ORDER AND SUBSEQUENT PROCEDURE

Making the order

14. Subject to the foregoing provisions of these Regulations the authority may make the control order and the order, if made by a local highway authority, shall bear that authority's seal duly authenticated in accordance with the relevant Standing Orders of that authority.

Notice of the making of the order

15. When the authority have made the control order, they shall:—
- (a) forthwith give notice in writing of the making of the order to the chief officer of police for the police area in which any controlled highway is situated;
 - (b) notify in writing each person who has duly objected to the order in accordance with Regulation 6 above and has not withdrawn his objection, of the authority's reasons for making the order in spite of his objection;
 - (c) within 14 days of the making of the order publish once in a local newspaper circulating in the area in which any controlled highway is situated a notice of the making of the order containing the particulars specified in Part III of Schedule 1 to these Regulations;
 - (d) comply with the relevant requirements of Schedule 3 to these Regulations as to the availability of documents for inspection;
 - (e) serve a copy of the notice of the making of the order, so far as it relates to a particular controlled highway, on the owners and occupiers of the premises fronting on that highway.

Service of notices

16. Section 233 of the Local Government Act 1972(a) (which relates to notices) shall apply in relation to notices to be served by the Secretary of State on any person under these Regulations as it applies in relation to notices required or authorised to be served by local highway authorities on any person by or under any enactment.

William Rodgers,
Secretary of State for Transport.

26th June 1978.

John Morris,
Secretary of State for Wales.

4th July 1978.

SCHEDULE 1**PARTICULARS TO BE INCLUDED IN PRESS NOTICES****PART I—PARTICULARS TO BE INCLUDED IN THE NOTICE OF PROPOSALS**

1. The name of the authority.
2. The title of the order.
3. A statement of the general nature and effect of the order.
4. The name or other brief description of each highway to which the order will apply and, where the order will apply to a part only of the length of a highway, a brief description of that length.
5. Where the order relates to a part only of the width of a highway or to land on one side only of a highway, a statement of this fact.
6. Where the order provides for exemptions from the control, a statement of the exemptions so provided.
7. Each address at which a copy of the order, as drafted, a copy of any map referred to in the order, and a copy of the authority's statement of reasons for proposing to make the order can be inspected, and the times when inspection can take place at each such address.
8. The period during which, and the address to which, objections to the order can be made, and a statement that all objections must be made in writing and must specify the grounds thereof.

PART II—PARTICULARS TO BE INCLUDED IN THE NOTICE OF A PUBLIC INQUIRY

1. The name of the authority.
2. The title of the order.
3. A statement which refers to the published notice of proposals for the order and which indicates that a public inquiry will be held in connection with the order.
4. A brief statement of the general nature and effect of the order and of the name or other brief description of each highway to which the order will apply.
5. The date, time and place of the inquiry and the name of the person appointed to hold the inquiry.
6. Each address at which a copy of the order, as drafted, a copy of any map referred to in the order, and a copy of the authority's statement of reasons for proposing to make the order can be inspected, and the times when inspection can take place at each such address.

**PART III—PARTICULARS TO BE INCLUDED IN THE NOTICE OF MAKING
THE ORDER**

1. The name of the authority.
2. The title of the order.
3. A statement of the general nature and effect of the order and of its operative date or dates.
4. The name or other brief description of each highway to which the order relates.

5. Each address at which a copy of the order, as made, and a copy of any map referred to in the order can be inspected, and the times when inspection can take place at each such address.

SCHEDULE 2

REQUIREMENTS AS TO NOTICES TO BE DISPLAYED IN A HIGHWAY

PART I—PARTICULARS TO BE INCLUDED IN THE NOTICE

1. The name of the authority.
2. The title of the order.
3. A brief statement of the effect of the order in relation to each highway where it is displayed.
4. An address at which a copy of the order, a copy of any map referred to in the order and a copy of the authority's statement of reasons for proposing to make the order can be inspected, and the times when such inspection can take place.
5. Where the notice is a notice of proposals, the address to which, and the period during which, objections to the order can be made, and a statement that all objections must be made in writing and must specify the grounds thereof.
6. Where the notice announces the holding of a public inquiry, the date, time and place of the inquiry and the name of the person appointed to hold the inquiry.

PART II—OTHER REQUIREMENTS AS TO THE DISPLAY OF THE NOTICE

1. The notice shall be displayed in a prominent position at or near each end of each length of highway to which the order applies and in such other positions as the authority think requisite for securing that adequate information about the subject matter of the notice is given to persons using the highway.
2. The notice shall first be displayed as aforesaid at the same time as the corresponding notice is first published in the local newspaper and the authority shall take all reasonable steps to ensure that it remains in a legible condition and continues to be so displayed:—
 - (a) in the case of a notice of proposals, until the end of the objection period;
 - (b) in the case of a notice announcing the holding of a public inquiry, until the date on which the inquiry begins.

SCHEDULE 3

REQUIREMENTS AS TO THE AVAILABILITY OF DOCUMENTS FOR INSPECTION

1. There shall be available for inspection at the authority's offices during normal office hours, and (if the authority think fit) at such other places within the locality affected and during such times respectively at those places as the authority may determine, the following documents:—
 - (a) a copy of the order as drafted or made (as the case may be);

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- (b) a copy of any map referred to in the order;
 - (c) in the case of an order which varies or revokes a previous order, a copy of that order and of any map referred to in it;
 - (d) in the case of a proposed order, a copy of a statement setting out the authority's reasons for proposing to make the order; and
 - (e) in the case of an order made after the holding of a public inquiry, a copy of the report and the recommendations (if any) of the person appointed to hold the inquiry.
2. The said documents shall be made available as aforesaid on the date of the first publication in the local newspaper of the notice in connection with which they are required to be made available, and they shall continue to be so available: —
- (a) where the notice is a notice of proposals, until the end of the objection period;
 - (b) where the notice is one announcing the holding of a public inquiry, until the date on which the inquiry begins; and
 - (c) where the notice is a notice of making the order, until the end of 6 weeks from the date on which the order is made.
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EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations lay down the procedure to be followed by highway authorities in England and Wales in connection with the making by them of orders under section 7 of the Local Government (Miscellaneous Provisions) Act 1976 for controlling road-side sales.

Regulations 4 to 11 prescribe the procedure before the order is made. They provide for preliminary consultations (Regulation 4), publication of proposals (Regulation 5), objections to the order (Regulation 6), public inquiries (Regulations 7 to 9), the consideration of objections and of the report of any inquiry and the making of modifications to the proposals (Regulations 10 and 11).

Regulations 12 and 13 contain provisions with respect to the form of the order and its operative date or dates.

Provisions as to the manner of making the order and as to the giving of notice of its making are contained in Regulations 14 and 15.

Schedules 1 to 3 detail the requirements as to the material to be included in the notices relating to the orders, as to the display of notices in highways and as to the documents to be made available for inspection.

SI 1978/932
ISBN 0-11-083932-3



780110839325