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STATUTORY INSTRUMENTS

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**1989 No. 1120**

**The Local Authorities' Traffic Orders (Procedure)  
(England and Wales) Regulations 1989**

**PART II**

**PROCEDURE BEFORE MAKING AN ORDER**

**Preliminary**

4. This Part of these Regulations has effect subject to Parts IV and V of these Regulations (which contain provisions relating to particular orders and orders made in particular circumstances) and Part VI of these Regulations (which contains transitional provisions).

**Consultation**

- 5.—(1) Before making an order an order making authority shall—
- (a) where they are not the highway authority for any road to which the order relates, consult with the highway authority for that road,
  - (b) where the order relates to a Crown road, consult with the appropriate Crown authority for that road,
  - (c) where—
    - (i) they are a highway authority, and
    - (ii) the order would be likely to have direct effect on traffic or any class of traffic on any road for the maintenance of which another highway authority is responsible,consult that other highway authority;
  - (d) in all cases, consult with organisations representing persons who use any road to which the order relates or are likely to be otherwise affected by any provisions of the order, unless it appears to the order making authority that there is no such organisation which can appropriately be consulted.

(2) The consultations referred to in paragraph (1) of this regulation are additional to the consultation with the chief officer of police required by paragraph 20 of Schedule 9 to the 1984 Act, any other consultation required by that Act, and the consultation required of London and metropolitan authorities by paragraph 6(3)(c) of Schedule 5 to the 1985 Act.

**Publication of proposals**

- 6.—(1) Before making an order, the order making authority shall—
- (a) publish once at least in a local newspaper circulating in the area in which any road or other place to which the order relates is situated a notice of proposals containing the particulars specified in Part I of Schedule 1;
  - (b) publish a similar notice in the London Gazette;

- (c) if it appears to the authority that it would be desirable in the interests of giving adequate publicity to the order, comply with the relevant requirements of Part II of Schedule 2 as to the notices to be displayed in each road or other place to which the order relates;
- (d) comply with the relevant requirements of Schedule 3 as to the availability of documents for inspection.

(2) At the same time as they comply with the requirements of paragraph (1) of this regulation, the authority shall send copies of the particulars mentioned in sub-paragraph (a) of that paragraph to each person whom they are required to consult under paragraph 6(3)(c) of Schedule 5 to the 1985 Act or regulation 5(1)(c).

### **Objections**

7.—(1) Any person desiring to object to an order shall send to the address specified in the notice of proposals published under regulation 6 a written statement of his objection and the grounds on which it is made.

- (2) The statement shall be sent to that address on or before—
  - (a) the date specified in the notice of proposals published under regulation 6, or
  - (b) the expiration of 21 days after the order making authority have complied with regulation 6(1)(a), (1)(b) and (2),

whichever is the later.

(3) Where an order making authority is a London or metropolitan authority, any objection under this regulation by any other such authority shall state whether or not it is alleged that the order would have any direct effect on traffic or any class of traffic on any road other than a trunk road in the area of that authority.

### **Public inquiries**

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

- (2) Where—
  - (a) an order contains a provision to which this paragraph applies,
  - (b) an objection has been made to that provision by any person in accordance with regulation 7 or 29, and
  - (c) the objection has not been withdrawn,

the order making authority shall, unless they are satisfied that the objection is frivolous, hold a public inquiry.

- (3) Where—
  - (a) an order contains a provision to which this paragraph applies,
  - (b) an objection has been made by a person who provides a relevant service on any road to which the order relates, and
  - (c) the objection has not been withdrawn,

the order making authority shall hold a public inquiry.

(4) The order making 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 these Regulations.

- (5) Paragraph (2) applies to any provision contained in an order—

(a) under section 1, 6, 32 or 37; or  
(b) under section 45 by virtue of section 53(1)(a),  
of the 1984 Act which prohibits, or has the effect of prohibiting, the loading or unloading of vehicles in any road either at all times or for any period of time unless such period falls wholly between 07.00 hours and 10.00 hours or between 16.00 hours and 19.00 hours in any day.

(6) Paragraph (3) applies to—

(a) any provision contained in an order—

(i) under section 1, 6 or 37, or

(ii) under section 45 by virtue of section 53(1)(a),

of the 1984 Act requiring vehicular traffic generally, or vehicular traffic of any class, to proceed on a road in a specified direction, or for prohibiting such traffic from so proceeding; and

(b) any provision contained in an order under section 19 of the 1984 Act prohibiting the use of any highway either at all times or for a limited period or periods in the year by public service vehicles or such vehicles of a specified class.

(7) For the purpose of paragraph (3)(b) of this regulation “a relevant service” means—

(a) a service which is a local service; or

(b) any other service for the carriage of passengers for hire or reward at separate fares.

### **Notice of public inquiry**

9.—(1) Where the order making authority decide, before publishing the notice of proposals under regulation 6, to hold a public inquiry, the notice of proposals shall contain, in addition to the particulars required by that regulation, the particulars specified in Part II of Schedule 1.

(2) In all other cases where, in connection with an order, a public inquiry is to be held (whether as a result of the authority’s decision or the requirements of regulation 8) the authority shall, after complying with the requirements of regulation 6—

(a) publish once at least in a local newspaper circulating in the area in which any road or other place to which the order relates is situated a notice of the inquiry containing the particulars specified in Part III of Schedule 1;

(b) publish a similar notice in the London Gazette;

(c) not later than the date of the first publication of the notice required by sub-paragraph (a) of this paragraph, inform in writing any person who has objected to the order in accordance with regulations 7 or 29 and who has not withdrawn the objection, of the date, time and place of the inquiry.

(d) if it appears to the authority that it would be desirable in the interests of giving adequate publicity to the inquiry, comply with the relevant requirements of Part II of Schedule 2 as to the notices to be displayed in each road, or other place to which the order relates.

(e) comply with the relevant requirements of Schedule 3 as to the availability of documents for inspection.

(3) Where the notice of proposals published under regulation 6 announces the holding of a public inquiry, there shall be at least 42 days between the date that the order making authority complied with paragraph (1)(a) and (b) of that regulation and the date when the public inquiry is due to begin.

(4) Where a notice of a public inquiry is published under sub-paragraphs (a) and (b) of paragraph 2, there shall be at least 21 days between whichever is the later of—

(a) the last day on which an objection can be sent under regulation 7, or

(b) the date when the order making authority comply with those sub-paragraphs, and the date that the inquiry is due to begin.

### **Procedure at public inquiry**

**10.**—(1) Any person interested in the subject matter of a public inquiry may appear at the 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 published under regulation 6(1) 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.

### **Consent of the Secretary of State**

**11.** Where an order is one which under Part II of Schedule 9 to the 1984 Act requires the consent of the Secretary of State, the order making authority's application to the Secretary of State for such consent shall be accompanied by copies of such of the documents specified in Schedule 4 as may be applicable.

### **Consideration of objections**

**12.** Before making an order the order making authority shall consider all objections duly made in accordance with regulation 7 or 29 and not withdrawn and also the report and recommendations (if any) of the person holding any public inquiry in connection with the order.

### **Modifications**

**13.**—(1) The order making authority shall not make an order with modifications where—

- (a) any of the modifications would involve a departure from the order in the form to which the Secretary of State or appropriate Crown authority have given their consent,
- (b) in a case where under paragraph 2 of Schedule 9 to the 1984 Act the Secretary of State has directed the authority to make the order, any of the modifications would involve a departure from the form in which the Secretary of State has directed the order to be made, or
- (c) in a case where the Secretary of State has made a determination under paragraph 7 of Schedule 5 to the 1985 Act, any of the modifications would be inconsistent with such determination,

but subject as aforesaid the order making authority may make the order with modifications (whether in consequence of any objections or otherwise).

(2) Where the order making authority propose to make, or the Secretary of State proposes to consent to, an order with modifications which appear to that authority or, as the case may be, to the Secretary of State to make a substantial change in the order, the order making authority shall before making the order, take such steps as appear to them to be appropriate or, in a case involving

the Secretary of State's consent, as the Secretary of State may require, for informing the persons likely to be affected by the modifications, for giving to those persons an opportunity to make representations in connection with the modifications and for ensuring that any such representations are duly considered by that authority and, where the Secretary of State so requests, by the Secretary of State.

(3) In this regulation, "modifications" has, in the case of an order made by a London authority, the meaning given by paragraph 23(2) of Schedule 9 to the 1984 Act; and in any other case the same meaning as in paragraph 22 of that Schedule.