

**EXPLANATORY MEMORANDUM TO**  
**THE TRAFFIC ORDERS PROCEDURE (CORONAVIRUS) (AMENDMENT)**  
**(ENGLAND) REGULATIONS 2020**

**2020 No. 536**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 This Instrument amends, temporarily, legislation relating to Traffic Orders which are required to make and enforce changes to a road's use or its design. The amendments are intended to speed up and simplify making Traffic Orders to put in place measures to deal with the effects of coronavirus, the need to social distance as a response and to support the Government's aims for a restart and recovery that helps to enable active travel, for example, cycling and walking. The amendments also provide alternative publicity arrangements to help deal with some practical difficulties that have arisen as a result of restrictions that are in place, for example, some local newspapers have closed or have moved publications online, local authority offices are closed to the public, and concerns about the safety of staff posting site notices in some circumstances.
- 2.2 The amendments made by this Instrument will expire at the end of 30th April 2021.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 This Instrument is not laid with at least 21 calendar days between the date of laying and the date of its coming into force. This urgent action is required to help deal with the impact of coronavirus and the need for measures to be put in place immediately as the public returns to work and restrictions are lifted (see more under the heading "Policy Background" below). Delaying the coming into force date for 21 days will mean that many measures needed to ensure public safety cannot be put in place at the time they are most needed.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As this Instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England.

## **5. European Convention on Human Rights**

- 5.1 As this Instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **6. Legislative Context**

- 6.1 Traffic Orders are made under the Road Traffic Regulation Act 1984 to make changes to a road's use or its design. Different types of orders can be made in different circumstances.
- 6.2 The procedures for making Traffic Orders is set out in the following legislation:
- the Road Traffic (Temporary Restrictions) Procedure Regulations 1992;
  - the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996;
  - the Secretary of State's Traffic Order (Procedure) (England and Wales) Regulations 1990.
- 6.3 The legislation includes a number of regulatory procedures, depending on the type of Order, that, amongst other things, require notices of Orders to be published in local newspapers, site notices to be displayed on street in some circumstances, and Orders to be made available for public inspection at an authority's offices. Certain other procedures need to be followed which means that, for example, temporary traffic orders can take on average 30 days to be made and come into force.

## **7. Policy background**

### *What is being done and why?*

- 7.1 This Instrument will, temporarily, amend legislation to deal with issues related to coronavirus, including the need to social distance as a response and support the Government's aims for restart and recovery activity that promotes active travel.
- 7.2 The amendments will enable authorities to more rapidly make the Orders that are needed to put in place measures to deal with the effects of coronavirus, for example, installing cycle lanes or widening pavements, and to deal with some practical difficulties that have arisen as a result of restrictions, for example, some local newspapers have closed or have moved publications online, local authority offices are closed to the public, and there are concerns about the safety of staff posting site notices in some circumstances.
- 7.3 The amendments will, firstly, allow local authorities to use new emergency procedures for temporary traffic Orders so that they can put in place measures quickly if they are necessary for purposes connected to coronavirus e.g. to support social distancing. The amendments speed up the process for temporary Orders made in these circumstances so that they can come into effect within 7 days after notice of intention to make the Order has been published. As with the current procedure, a notice period of 7 days is required before making an Order to allow for responses to the proposed change to be made. The emergency procedure allows for publication of that notice via digital media, for example, websites, online publications, social media or email. Letter or leaflet drops could also be used. Authorities are able to decide upon the most effective and appropriate way to publish the notice. Orders could then come into force at the end of the 7-day period and works can start.

- 7.4 As with existing procedures, a second notice would need to be published within 14 days after making the Order for information so that local people and businesses can see the final details of the changes being made, and the Government's objective of continuing to support local independent news reporting can be met. Publication is via local newspapers (online and/or print) where these are still available in an area. Where it is not reasonably practicable to use local print or online papers (i.e. where they are not available), a local authority can use other means of publication instead, including digital media. It is also important to note that informal consultation will take place, as now, as part of the initial scheme design.
- 7.5 Secondly, for temporary Orders that are not made for purposes connected to coronavirus, for example, street works road closures, and all permanent and experimental orders, the amendments will allow for alternative publicity, inspection and on-site posting requirements in cases where it is not reasonably practicable for local authorities (or concessionaires, the Secretary of State or Highways England) to comply with the requirement to advertise notices or orders in local newspapers because these have closed or moved to online publication, or because local authority offices are closed, or it is not safe for staff to post site notices in cases where these are needed. If a print newspaper is still in circulation, then orders should still be published in these to meet the Government's objective of continuing to support local independent news reporting.
- 7.6 The amendments will provide that the new emergency procedures may only be used to put in place measures needed to deal with the effects of coronavirus. The alternative publicity arrangements for non-emergency Orders will apply to all temporary, permanent and experimental orders irrespective of whether they are related to coronavirus, to enable Traffic Orders to continue being made in a context where the wider impact of coronavirus may be creating procedural barriers.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This Instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

- 9.1 There are no plans to consolidate the relevant legislation.

## **10. Consultation outcome**

- 10.1 The Department for Transport has informally consulted with representative organisations, including key stakeholders such as Transport for London, Highways England, the Local Government Association, the Road Haulage and Freight Transport Association, the Confederation of Passenger Transport and other groups representing rights of way and cycling interests.
- 10.2 Responses were received asking for clear guidance to accompany this Instrument to ensure the new procedures are used in the correct circumstances. The importance of continuing to liaise with freight and public transport operators in the design of measures was also highlighted.

## **11. Guidance**

- 11.1 Guidance will be published and available on the Department for Transport's website on the use of these amended procedures. It is anticipated that this will be available no later than 5<sup>th</sup> June.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because there is no, or no significant impact on the business, charities, voluntary bodies or the public sector. Additionally, the amendments made by this Instrument will expire within 12 months if the Government takes no further action to extend it.
- 12.4 The Department for Transport has conducted an internal assessment that has informed the assessments noted above.

## **13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

- 14.1 The amendments made by this Instrument will automatically expire at the end of 30th April 2021.

## **15. Contact**

- 15.1 Sally Kendall at the Department for Transport, Telephone: 07826 902195 or email: [sally.kendall@dft.gov.uk](mailto:sally.kendall@dft.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Anthony Ferguson, Deputy Director for Traffic and Technology, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Baroness Vere of Norbiton at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.