

SL(5)589 – The Traffic Orders Procedure (Amendment) (Wales) (Coronavirus) Regulations 2020

Background and Purpose

These Regulations make provision with respect to certain traffic orders made and notices given in Wales, under the Road Traffic Regulation Act 1984. The Explanatory Note states that they are being introduced as an emergency measure in response to the effects of coronavirus.

They amend the procedure for making traffic orders and giving notices by providing an alternative means of publicising orders in circumstances where it is not reasonably practicable to follow the current publicity requirements as a result of coronavirus. They also simplify the procedure for making temporary traffic orders that are made for purposes connected to coronavirus.

The Regulations amend—

- 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 Orders (Procedure) (England and Wales) Regulations 1990.

Procedure

Negative.

Technical Scrutiny

One point is identified for reporting under Standing Order 21.2 in respect of this instrument:-

Standing Order 21.2 (v) - that for any particular reason its form or meaning needs further explanation; and

Standing Order 21.2 (vi) - that its drafting appears to be defective or it fails to fulfil statutory requirements.

Regulation 2 amends the Road Traffic (Temporary Restrictions) Procedure Regulations 1992 ("the 1992 Regulations") which set out the procedure for the making of temporary traffic orders and the giving of notices. It inserts a new Part 7 into the 1992 Regulations (inserting new regulations 22 to 27). The new regulation 23 relates to the publicity requirements for traffic regulation orders and notices. It enables alternative arrangements to be used for publicising a notice relating to a traffic order, where it is not reasonably practicable for reasons connected to the effects of coronavirus, including restrictions on movement.

New regulations 23 (3) (b) and 26 (1) (c) refer to requirements contained in regulation 13(4) of the 1992 Regulations (Procedure for issue of temporary notice by concessionaire) and purport to apply the alternative arrangements to temporary notices issued by concessionaires.

Regulation 2 of these regulations does not however apply new Part 7 to regulation 13 of the 1992 Regulations.



It does not appear that it is the intention of Welsh Government to apply new Part 7 to notices issued under regulation 13 of the 1992 regulations, as new regulation 23 refers only to “a traffic authority” rather than “a traffic authority or a concessionaire”.

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3 in respect of this instrument.

Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We note the breach of the 21-day rule (i.e. the rule that 21 days should pass between the date a “made negative” instrument is laid before the Senedd and the date the instrument comes into force), and the explanation for the breach provided by Rebecca Evans MS, Minister for Finance and Trefnydd, in a letter to the Llywydd dated 27 July 2020 that:

Due to the closure of public buildings and some newspapers moving to online publication only, which has been necessary to slow the spread of COVID-19, it is not currently possible to meet the legislative requirements to bring a road traffic regulation order into force. These Regulations amend the procedure for making traffic orders and giving notices by providing alternative means of publicising orders in circumstances where it is not reasonably practicable to follow the current publicity requirements as a result of COVID-19.

Not bringing the Regulations into force straight away will cause an increasing backlog of traffic orders waiting to be made, which would have impacts for road safety across the road network in Wales. It would also delay the use of new emergency procedures for temporary traffic orders necessary for purposes connected with coronavirus. Not adhering to the 21- day convention is thought necessary and justifiable in this case.

Given the easing of some Covid-19 restrictions, together with the fact that many public buildings have been closed since March 2020, it is unclear why the Regulations have had to come into force so urgently as to breach the 21-day rule.

Implications arising from exiting the European Union

None.

Government Response

Technical Scrutiny point : It is noted that new regulations 23 (3) (b) and 26 (1) (c) refer to requirements contained in regulation 13(4) of the 1992 Regulations (Procedure for issue of temporary notice by concessionaire) and purport to apply the alternative arrangements to temporary notices issued by concessionaires. It is accepted that regulation 2 of these regulations does not however apply new Part 7 to regulation 13 of the 1992 Regulations.

It is confirmed that it was not the intention of the Welsh Government to apply new Part 7 to notices issued under regulation 13 of the 1992 regulations.



In the particular circumstances of this instrument, it is not the intention of the Welsh Government to make amending regulations. In this regard, the Welsh Government is mindful that the references to regulation 13(4) of the 1992 regulations have no legal or practical effect and that there are no longer any concessionaires in Wales. The view is therefore taken that no harm will be caused by the Welsh Government not correcting the provisions in question. In addition, the Welsh Government notes that the 2020 regulations are temporary regulations and that the opportunity can be taken to make the necessary amendments if the current temporary regulations are extended by further regulations in 2021.

Merit Scrutiny point : The rationale for not adhering to the 21-day convention is as set out in the letter of 27 July 2020 referred to in the Committee's report. It is acknowledged that some Covid-19 restrictions had been eased by the time the regulations were made and that many public buildings had been closed since March 2020. Notwithstanding that, the practical difficulties in complying with the 1992 regulations continued to be evident notwithstanding the relaxation of some restrictions. The complexity of the amendments and the need for consultation meant that the regulations could not be made as quickly as the Welsh Government would have liked. By the time the Welsh Government was able to make the regulations, there was a large and increasing backlog of traffic orders needing to be made by traffic authorities in Wales. The view was therefore taken that not adhering to the 21-day convention was necessary and justifiable in this case.

Legal Advisers

Legislation, Justice and Constitution Committee

06 August 2020



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—
Welsh Parliament

Legislation, Justice and Constitution Committee