

Title of Report:	REVIEW OF THE ROADS (MISCELLANEOUS PROVISIONS) ACT (NORTHERN IRELAND) 2010
Committee Report Submitted To:	ENVIRONMENTAL SERVICES COMMITTEE
Date of Meeting:	8th September 2020
For Decision or For Information	FOR DECISION

Linkage to Council Strategy (2019-23)	
Strategic Theme	Leader and Champion
Outcome	Suggest improvements to current legislation
Lead Officer	Head of Health & Built Environment

Budgetary Considerations	
Cost of Proposal	N/A
Included in Current Year Estimates	YES/NO
Capital/Revenue	N/A
Code	N/A
Staffing Costs	N/A

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	Yes/No	Date:
	EQIA Required and Completed:	Yes/No	Date:
Rural Needs Assessment (RNA)	Screening Completed	Yes/No	Date:
	RNA Required and Completed:	Yes/No	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	Yes/No	Date:
	DPIA Required and Completed:	Yes/No	Date:

1.0 Purpose of Report

- 1.1 The purpose of this report is to advise members of the consultation issued by Department for Infrastructure on the 27th July 2020 regarding the Review of the Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 with a submission date of the 24th September 2020. Responses may be made via an online questionnaire https://www.surveymonkey.co.uk/r/Dfl_Special_Events A response has been prepared for consideration.

2.0 Background

- 2.1 The Roads (Miscellaneous Provisions) Act (Northern Ireland) was enacted in August 2010, however the provisions dealing with special events on roads were not immediately commenced as Department officials were working with Councils to develop guidance to assist in its implementation.
- 2.2 The legislation dates back to a time when it was anticipated that Councils, as part of local government reform, may have an enhanced role in road infrastructure management. This ultimately did not happen. The NI Act also was developed along the same lines as UK legislation, where the role of Councils in relation to roads infrastructure and traffic management is very different.
- 2.3 In the early stages, the draft legislation was the subject of much criticism by Councils to the point where, in 2013, the commencement order was deferred and the legislation 'shelved' by the Minister for Regional Development amidst concerns. However, the legislation was dusted down and the commencement Order passed in January 2017, immediately prior to the collapse at Stormont, without a further review.
- 2.4 As a result, many of the concerns previously raised by Councils still remain. The issues for Council have been categorised into both the legislation intent/content matters, and the operational difficulties subsequently encountered when attempting to implement an instrument which is not fit for purpose. The following comments are offered for consideration.

3.0 Legislative Weaknesses

- 3.1 The purpose of the legislation is essentially one of traffic management and public notification rather than event safety, which is dealt with under other procedures. It was founded in the need to control the use of public roads for holding of special events ie sporting and social activities such as fun runs, street parties, switching on of Christmas lights, and the making of films.
- 3.2 The legislation specifies Council as the responsible authority but the rationale for this is questionable. Its core purpose is to ensure the safety of road users and minimise disruption to road users/owner occupiers of adjoining property

for events on a road (by way of a public notification process) and it is difficult to see how this is the responsibility of Council.

- 3.3 Council believes that both these remits fundamentally lie with PSNI and Department for Infrastructure with Council having neither the role or responsibility or even knowledge/expertise in these matters.
- 3.4 Council are acting as secretariat to Department for Infrastructure (DfI) in a bureaucratic and costly process. The current legislation and associated guidance has created an unnecessary, time consuming and costly system for councils without any formal input or decision making. The arrangements, as they stand, have in effect resulted in Councils acting as the secretariat and administrators for DfI in the road closure process for special events.
- 3.5 Council's activity involves validating and processing applications, publishing a Public Notice in the local paper to specify restrictions, specify alternative routes and invite representations, formally consulting with the relevant agencies, consideration of representations from interested parties and seeking additional paperwork for consideration by PSNI and DfI, without any input to the process themselves. Furthermore, Councils can only issue an Order once consent has been granted by DfI. The process is therefore highly inefficient and costly and one in which Council has little input or control.
- 3.6 The DfI have had systems and procedures in place for years to deal with road closures for utility works and the like. The Road traffic Regulation (Northern Ireland) Order 1997 article 7 refers. The most obvious arrangement would be to extend the existing DfI road closure process to special events and remove this role from Councils.
- 3.7 The legislation imposes unnecessary costs to event organisers. It is prescriptive and outdated, requiring newspaper advertisements by way of public notifications. This is a significant cost to event organisers including Councils and others such as, community groups and sporting clubs that operate on a not for profit basis. (Council has agreed to absorb this cost on behalf of particular applicants). This is money that neither councils nor applicants need to pay – websites or other social media platforms are generally accepted as effective means of public notification without the expense of newspaper advertising.
- 3.8 There has been an inconsistency in approach between Councils and DfI. It is understood that when DfI issue a road closure order for utility works, the public notification and consultation process is required only when the road closure takes place for 2 weeks or more. A Road Closure Order for special events requires an application, consultation etc process even if a road is to be closed for an hour for a special event.
- 3.9 Council has no monitoring or enforcement role with respect to the legislation as this falls to PSNI. Where matters in relation to traffic disruption or safety

arise as a result of a special event being held on a public road, Council has no powers to address.

- 3.10 The legislation has no built in appeal mechanism. Where Council refuse an application for an Order, they are doing so on the basis of decisions made following consultation with other agencies, or as a result of DfI failing to confirm a recommendation by Council for an Order. There is no appeal mechanism built into the legislation. This has the potential for reputational damage to council in relation to a decision that they have little control over.
- 3.11 The legislation was subject to equality assessment in 2009/10 was enacted in 2017 without further assessment despite the revision of equality legislation.

4.0 Operational Issues arising out of implementing the legislation

- 4.1 Although DfI have reported that the role for council is administrative in nature and thus there are “no significant resource implications” Council would strongly contest this. From 2017, Causeway Coast and Glens Borough Council have received a total of 44 road closure order applications for special events on roads to date, and have provided advice and assistance to approximately 20 other groups who have made enquiries. The resource implications of validating and processing applications, advising organisers, undertaking consultations with statutory consultees, facilitating and attending SAG meetings, arranging notifications, reviewing representations made and seeking resolutions, is very significant. It is particularly concerning as this cost has had to have been absorbed by Council, as to pass these costs to event organisers would result in their events not being viable.
- 4.2 DfI Guidance means that many of the small events that take place (such as local road run) which typically only restrict traffic flow on minor roads, at off-peak times, for ½ hour or less are ‘caught’ by the legislation. These events are often run by community groups, on a not-for-profit basis, but which fall within the definition of special event (‘not ordinary or usual’). The guide refers to exemptions for small events, however when this is examined relates to events on minor residential roads and cul de sacs and would appear to have been written to address the street party type scenario rather than the small 5k road run – in any event the notification and consultation processes (and hence costs) remain the same.
- 4.3. There is at times significant variance in the level of traffic management that event managers put in place, largely influenced by cost. The result can mean that similar events have very different set ups – from closing whole roads for races, to allowing runners and traffic on the same road during an event. Although the adequacy of the event management plan is assessed and approved by DfI in consultation with PSNI, it is Council who issue the Road Closure Order, on the permission of DfI. As the issuing authority, Council runs the risk of a claim of inconsistency in relation to a matter for which they have no input or control.

4.4 Short notice events. Even though the legislation and creation of procedure was designed to help the film industry, Council has found that even with a shortened turnaround timescale of 6-8 weeks from application to Order, this is still too long for certain film projects. Council have had several occasions where film industry were asking Council to process and issue road closures order in 4 weeks or less which is not possible within the confines of the existing process.

5.0 **Recommendation**

It is recommended that Council endorses the response above with respect to the consultation to the review of the Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010, and that the Head of Health and Built environment be delegated to submit the response online to meet the closing date.