

## The Traffic Orders Procedure (Coronavirus) (Amendment) (England) Regulations 2020

### **Content**

#### Temporary traffic Orders which are made for purposes connected to coronavirus

Regulation 2 allows local authorities to use new emergency procedures to publicise notices of their intention to make temporary traffic Orders connected to coronavirus and notices that such an Order has been made.

In relation to notices of local authorities' intention to make such an Order, neither the Regulations nor the explanatory memorandum require local authorities to favour publication in a newspaper over other arrangements. However, the regulations do state that publishing arrangements for such notices may include:

- publication in one or more newspapers circulating in the area in which any road to which the Order relates is situated;
- online publication, including websites, online newspapers, email communication or social media;
- leaflet distribution;
- letter delivery, by post or otherwise.

In relation to notices that a temporary Order connected to Coronavirus has been made, there is a prima facie duty to publish in a newspaper whether in print or online, circulating in the area in which any road to which the Order relates is situated. However, where this is not practicable for reasons relating to Coronavirus, the local authority may use such alternative publishing arrangements as it considers appropriate, including:

- online publication, including websites, online newspapers, email communication or social media;
- leaflet distribution;
- letter delivery, by post or otherwise.

The explanatory memorandum is clear that in relation to the duty to publish a notice that an Order connected to coronavirus has been made in a newspaper, 'not reasonably practicable' means that local newspapers are not available.

#### Orders that are not made for purposes connected to coronavirus

Regulations 2-4 temporarily allow local authorities, the Secretary of State and Highways England to use alternative arrangements for publicising:

- notices relating to temporary traffic Orders not related to coronavirus
- all notices relating to permanent and experimental traffic Orders,
- all notices relating to the Secretary of State's reserve powers in Schedule 9 to the Road Traffic Regulation Act 1984, and

- all notices relating to certain traffic Orders made by the Secretary of State or the strategic highways company (Highways England) in relation to trunk roads and countryside roads.

The alternative publication arrangements for these types of notices include:

- online publication, including websites, online newspapers, email communication or social media;
- leaflet distribution;
- letter delivery, by post or otherwise;

These regulations apply only where the public authority considers that it not reasonably practicable to publish in a newspaper circulating in the area, or to post notices on site, for reasons connected to the effects of coronavirus, including restrictions on movement. The statutory obligation to publish these notices in newspapers is otherwise preserved.

The explanatory memorandum makes it clear that the term ‘not reasonably practicable’ is to have a very narrow interpretation. In relation to publication in a local newspaper, it means:

‘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.’

The memorandum continues:

‘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.’

### **Expiry**

These regulations will cease to have effect after April 30<sup>th</sup>, 2021.

### **Limited scope**

From a letter to the NMA from the Secretary of State for DCMS dated May 29<sup>th</sup>

‘The amendments to statutory notices legislation on Planning notices are part of a range of emergency measures being introduced to accommodate the current change of operating circumstances for Local Authorities, due to Covid-19. The regulations will be time-limited, and they will not remove the requirement to publish in local newspapers where they exist. Instead, they will provide Local Authorities the flexibility where there is no local title to use online equivalents such as a local newspaper website, or social media platforms. The Department for Transport (DfT) has also recently brought in new emergency traffic orders as part of these emergency measures, to help speed up the order making process so that road works to support social distancing measures (e.g. on pop up cycle lanes or wider pavements) can begin promptly. We have worked with DfT to ensure that these orders will continue to be published via local newspapers retrospectively (either online or in print), rather than solely online, unless there is no local paper in the area.’

### **Guidance**

Further guidance for local authorities will be published and available on the Department for Transport’s website no later than 5th June. The NMA will update this note on the NMA website as the guidance becomes available.