

# **ROAD TRAFFIC REGULATION (TEMPORARY CLOSURE FOR FILMING) BILL**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes relate to the Road Traffic Regulation (Temporary Closure for Filming) Bill introduced in the House of Commons on 7 July 2014. They have been prepared by the Department for Culture, Media and Sport, with the consent of Mr Iain Stewart MP, the Member in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.

2. The Notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require any explanation or comment, none is given.

### **SUMMARY**

3. The Bill provides a power for traffic authorities in England and Wales to prohibit or restrict traffic for the purpose of facilitating filming, or reducing disruption to traffic likely to be caused by filming.

### **BACKGROUND**

4. At present, the Road Traffic Regulation Act 1984 (“the RTRA”) enables roads to be closed, or traffic restricted, for specific purposes (such as holding cycle races or street parties) but those purposes do not include filming. The RTRA has been

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modified in its application to Greater London<sup>1</sup>, Kent<sup>2</sup> and Hertfordshire<sup>3</sup> to permit road closures and traffic restrictions for filming. A similar Bill in respect of Buckinghamshire is currently before Parliament<sup>4</sup>.

5. The Bill inserts the new power to close roads into the RTRA. Section 121A of the RTRA defines “traffic authority”. Broadly speaking, traffic authorities are either *local traffic authorities*, being county or metropolitan district local authorities, or London boroughs or the Common Council of the City of London, or *traffic authorities*, being Transport for London in respect of the GLA road network, or the Secretary of State or the Welsh Ministers where they have responsibility as the highways authority for those roads under the Highways Act 1980. The Secretary of State will be able to appoint one or more Strategic Highways Companies (an “SHC”)<sup>5</sup>. The effect of any appointment would be to make that SHC a traffic authority instead of the Secretary of State for the highways which fall within its remit. For the purposes of this Bill, therefore, any appointed SHC will be a traffic authority (and so be able to exercise the powers conferred on traffic authorities by it).

6. The functions of the Secretary of State as the highway authority for roads in Wales (and therefore as the traffic authority) under the Highways Act 1980 have been devolved to the Welsh Ministers<sup>6</sup>, except that part of the M4 Motorway in Wales which comprise the New Toll Plaza area and the New Bridge, as defined in section 39(1) of the Severn Bridges Act 1992, and functions exercisable in pursuance of the road mentioned in section 329(5) of the Highways Act 1980.

7. The Bill extends to England and Wales only.

8. The Bill confers new functions on the Welsh Ministers. They are as follows:

- a power to close or restrict traffic by order for roads for which they are the traffic authority;
- a power to agree that another traffic authority can make an order for a road in Wales in respect of which the Welsh Ministers are the traffic authority;
- a power to agree that an order can be made for a period exceeding 7 days, where the Welsh Ministers are the “relevant Minister” (see paragraphs 15-19 below); and

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<sup>1</sup> Part IV of the London Local Authorities and Transport for London Act 2008, c.iii.

<sup>2</sup> Kent County Council (Filming on Highways) Act 2010 c. iv.

<sup>3</sup> Hertfordshire County Council (Filming on Highways) Act 2014, c.i.

<sup>4</sup> Buckingham County Council (Filming on Highways) Bill 2014.

<sup>5</sup> See clause 1 of the Infrastructure Bill HL Bill 2.

<sup>6</sup> Firstly under the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 199/672), and subsequently to the Welsh Ministers under the Government of Wales Act 2006.

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- a power to agree to an extension of an order for a period not exceeding 3 days where the Welsh Ministers are the “relevant Minister” (see paragraphs 15-19 below).

## **COMMENTARY ON CLAUSES**

### **Clause 1: Prohibition or restriction on roads in connection with filming**

9. *Subsection (2)* inserts new sections 16BA and 16BB into the RTRA.
10. New section 16BA(1) provides a power for a traffic authority for a road in England or Wales to restrict or prohibit traffic on a road for the purpose of facilitating filming. This power is exercisable by order, referred to as a “film order” in these Notes.
11. New section 16BA(2) requires that prior to the making of an order, the traffic authority must satisfy themselves that it is not reasonably practicable for filming to take place without traffic on the road being prohibited or restricted.
12. New section 16BA(3) provides that a film order can apply to roads for which the traffic authority making the order is not the traffic authority, so long as sections 16BA(1) and (2) are complied with, and the traffic authority for those roads have agreed.
13. New section 16BA(4) applies sections 16A(8) to (11) to film orders. These:
  - require the traffic authority to have regard to the safety and convenience of alternative routes suitable for the traffic which will be affected by the order (section 16A(8));
  - require the order must not have the effect of preventing at any time access for pedestrians to any premises situated on or adjacent to the road, or to any other premises accessible for pedestrians from, and only from, the road; (section 16A(9)); and
  - set out what the order can provide for, for example the suspension of parking spaces (sections 16A(10) and (11)).
14. New section 16BB contains restrictions on film orders made under new section 16BA. It provides that:
  - a film order can only remain in force for 7 days unless the order is made by the Secretary of State or a SHC or the Welsh Ministers as the traffic authority, or the relevant Minister has agreed to a longer time prior to the film order being

made. The “relevant Minister” is explained in paragraphs 15-19 below (section 16BB(1));

- a film order can be extended for up to 3 days if filming has not been completed (for instance, because of weather delays) and the traffic authority considers it appropriate for the order to continue. If the order applies to roads for which the traffic authority which made the order is not the traffic authority, then the traffic authority that made the order must have the agreement of the traffic authority for the road affected, and of the relevant Minister (section 16BB(2) – (4)); and
- a maximum of 6 film orders per calendar year can be made in respect of a length of road, unless the further order is made by the Secretary of State or a SHC or the Welsh Ministers as the traffic authority, or the relevant Minister has agreed (section 16BB(5) and (6)).

15. The definition of the “relevant Minister” for the purpose of this section is set out in new section 16BB(7).

16. The Secretary of State will be the relevant Minister in respect of orders applying only to roads in England or to special Welsh roads. A special Welsh road is defined in section 16BB(8) as a road in Wales for which the Secretary of State is the traffic authority. For an explanation of the roads in Wales for which the Secretary of State is traffic authority see paragraph 6 above.

17. The Secretary of State will also be the relevant Minister where a film order is made by the Welsh Ministers which includes a road in England or a special Welsh road.

18. The Welsh Ministers will be the relevant Minister for film orders covering only roads in Wales (as long as the order doesn’t include a special Welsh road), or in respect of an order made by the Secretary of State which applies to roads in Wales.

19. In all other cases (for example, in respect of cross-border film orders made by local traffic authorities which apply to roads in both England and Wales) both the Secretary of State and the Welsh Ministers will be the relevant Minister and so both need to give their agreement.

20. *Subsection (3)* of this clause amends sections 16C(1) and (2) of the RTRA. The effect of the amendment to section 16C(1) is to make using or permitting the use of a vehicle in contravention of an order made under section 16BA a criminal offence. The effect of the amendment to section 16C(2) is to enable the Secretary of State to make regulations with respect to the procedure to be followed in connection with the making of orders under section 16BA, including provisions as to consultation and publicity.

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21. *Subsections (4) – (8)* make consequential amendments to the RTRA and other road traffic Acts.

## **Clause 2: Consequential repeal or amendment of local Acts**

22. *Subsection (1)* of this clause confers a power on the Secretary of State to make regulations made by statutory instrument to amend or repeal any provision of any local Act passed before or in the same session as this Act if it appears to the Secretary of State to be appropriate to do so in consequence of a provision of this Act.

23. *Subsection (2)* of this clause provides that such regulations may include supplementary, consequential, transitional, transitory or saving provision. *Subsection (3)* of this clause provides that such regulations are subject to the negative resolution procedure.

## **FINANCIAL EFFECTS**

24. It is anticipated that there will be some public expenditure arising out of the Bill.

25. In respect of local authority costs, it is estimated (based on the amount of orders applied for where there are existing powers under local Acts) that there will be in the region of 375 additional orders per year each involving a cost of around £51 to make and implement in staff cost time and approximately £500-1500 for publishing notices in the press. Extrapolating this cost to areas in England and Wales where filming on public roads is not currently permitted is estimated to cost approximately £19,000 per annum to local authorities. It is expected that some or all of these costs will be recovered by charging fees under the powers conferred by section 93 of the Local Government Act 2003 (which, by virtue of section 1(a) of the Local Government Act 1999 (as amended by Schedule 8 to the Local Government and Public Involvement in Health Act 2007) applies to all local authorities).

26. The Secretary of State, SHCs and the Welsh Ministers do not intend to charge fees to cover their functions under the Bill. However, it is likely that the number of film orders which will be made by them will be very small; and that the administrative costs of the Secretary of State and/or the Welsh Ministers consenting to film orders made by other traffic authorities will be negligible. It is anticipated that these costs will be met within existing budgets. Further details on the financial implications of the Bill are set out in the accompanying Impact Assessment.

## **PUBLIC SECTOR MANPOWER**

27. It is not anticipated that the Bill will have a significant impact on wider public

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sector manpower.

## **IMPACT ASSESSMENT**

28. An Impact Assessment has been produced setting out the effects of the Bill. Copies have been placed in the Libraries of both Houses.

29. The Impact Assessment identifies an estimated Net Cost to business of £177,000 per year. Given that filming on closed roads is concentrated in certain regions this should be considered an upper estimate.

30. Impacts on carbon emissions are negligible.

## **EUROPEAN CONVENTION OF HUMAN RIGHTS**

31. This Bill is compatible with the human rights and freedoms recognised in the European Convention of Human Rights. The Bill may engage Article 8 and Article 1 of Protocol 1 rights in relation to access to, and peaceful enjoyment of, the home and the protection of property rights. However, the Bill contains safeguards to ensure that film orders cannot restrict pedestrian access to the home. It will be for traffic authorities, as public authorities, to ensure compliance with Convention rights in exercising their powers under the Act. For example, in respect of individuals who, for reasons of disability or otherwise, can only gain access to their home by parking adjacent to the home, it is anticipated that traffic authorities (who, as public authorities and such subject to section 3 of the Human Rights Act 1998) will ensure that film companies cooperate with homeowners.

## **COMMENCEMENT**

32. Clauses 2 and 3 of the Bill will come into force on the date of Royal Assent. Clause 1 will be brought into force on a date to be appointed by the Secretary of State.