



**Northern Ireland
Assembly**

**COMMITTEE FOR
REGIONAL DEVELOPMENT**

**OFFICIAL REPORT
(Hansard)**

Roads (Miscellaneous Provisions) Bill

10 March 2010

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Fred Cobain (Chairperson)
Miss Michelle McIlveen (Deputy Chairperson)
Mr Cathal Boylan
Mr Allan Bresland
Mr Willie Clarke
Mr Tommy Gallagher
Mr Danny Kinahan
Mr Raymond McCartney
Mr Ian McCrea
Mr George Robinson

Witnesses:

Mr Gerry Anketell)	
Mr Gerry Byrne)	Department for Regional Development
Mr Harvey Hamilton)	
Dr Andrew Murray)	

The Chairperson (Mr Cobain):

This session is being recorded for Hansard. Andrew, will you introduce your team, please?

Dr Andrew Murray (Department for Regional Development):

Good morning. I am Andrew Murray, and I am the Roads Service's director of network services. My colleagues are Gerry Byrne, the street works manager in Roads Service who works with me in the network services area; Harvey Hamilton, from our transportation and engineering policy

unit; and Gerry Anketell, from the Department's primary legislation unit.

We are here to talk about the Roads (Miscellaneous Provisions) Bill. As you know, we have appeared before the Committee on numerous occasions, and officials have briefed the Committee several times. The last briefing was on 6 January, prior to the introduction of the Bill to the Assembly. We are back today at the Committee's invitation, and I thank you for that. We are here to provide the Department's response to the Committee's stakeholder consultation.

I will recap briefly: the Bill is a small one, with two main subjects. First, the permit scheme proposals. Those are free-standing proposals for street and other works. The second subject is the powers to close roads for special events. There are also two technical amendments.

Broadly speaking, no comments were made in the stakeholder consultation on the proposals to amend the Traffic Management (Northern Ireland) Order 2005 in relation to the roles of the Lord Chancellor and the Lord Chief Justice, or in relation to the Road Traffic Regulation (Northern Ireland) Order 1997 in respect of inquiries. Those are the two minor technical issues. However, the Department has identified some issues with the consultation on the two main subjects that members of the Committee may feel it helpful to have clarified and others that may require further explanation. I should mention that the Department will be happy to provide written submissions to the Committee on any points raised by the consultees.

Mr Gerry Byrne (The Department for Regional Development):

The Department wishes to comment on responses submitted by Lisburn City Council, Phoenix Natural Gas, NIE and Firmus Energy, many of whose comments were the same, and by BT Ireland and the Utility Regulator. I will deal with each of those in turn.

Lisburn City Council welcomed the Bill but asked the Committee to take cognisance of its concerns in the areas raised in its representation. It raised two concerns around the permit scheme. The first comment was that it hoped that there would be effective policing of the permit scheme. The Department intends to ensure that effective policing is put in place.

The second concern regarded how much time an appeal might take through the Planning Appeals Commission. The council suggested using the Traffic Penalty Tribunal as a model. The Planning Appeals Commission is the appellate body under the Street Works (Northern Ireland)

Order 1995 and in the Roads (Northern Ireland) Order 1993. The Department considers that it would be inappropriate for appeals that relate to the permit scheme to be considered by a different appellate body. The Planning Appeals Commission and the Office of the First Minister and deputy First Minister have indicated that the commission can undertake the task.

There is an agreement between the Department and the Northern Ireland Road Authority and Utilities Committee in respect of dispute resolution under the current noticing system. The Department anticipates that a similar dispute resolution process will be incorporated in respect of permit regulations. There is provision for that under clause 3. That dispute resolution procedure could resolve many disputes and reduce the workload and number of disputes that arise with the Planning Appeals Commission.

Those were the two points that arose from Lisburn City Council's submission. I will move on to comments by Phoenix Natural Gas, NIE and Firmus Energy. Those three utilities requested amendments to be made to clause 3 and the inclusion of two sub-paragraphs. The first was to make provision as to the notice to be given to utilities and other parties with regard to permits that are being considered and for the actual restrictions to be agreed for approved permits with utilities and other affected parties in advance.

The Department agrees that the giving of adequate notice is one of the underlying principles of effective co-ordination and co-operation between the road authority and those who execute works on the roads. However, the Department believes that provision already exists in the Bill as it stands, under clause 3(2)(d), which provides that the Department may make provision in regulations as to the inclusion of "conditions or types of conditions" that may be imposed. Therefore, the Department believes that there is no need for the inclusion of suggested sub-paragraph (e).

The second amendment that was requested by Phoenix Natural Gas, NIE and Firmus Energy was to set out standard provisions whereby permit holders must co-operate with and provide access for emergency services or other agencies, such as utilities, in resolving local emergency situations. Again, the Department agrees on the importance of emergency access. However, it believes that clause 3(8) provides for permit regulations to "disapply or modify" existing statutory provisions. Consequently, permit regulations could provide for the exemptions in respect of emergency works that are contained in the 1995 Order to be applied to works for which

a permit is required, and for the duty of co-operation that is placed on undertakers to co-operate with street authorities and with each other, which is found in article 20 of the 1995 Order, to be applied to permit holders. For that reason, the Department believes that that requirement can be addressed in the permit regulations themselves, rather than in the Bill. The Committee is reminded that the first set of permit regulations must be laid before, and approved by resolution of, the Assembly.

The Chairperson:

Do you want to elaborate on that issue or continue to the end of your submission?

Mr Byrne:

I am happy to continue to the end of my submission, if that is the preferred approach.

NIE made five further points on the permit scheme in its response. The first was that fixed penalty notices should be in line with costs and the application of proposed fixed penalty notices — *[Interruption.]*

NIE's first point was that fixed penalty notices should be in line with costs and the application of proposed fixed penalty notices already in the 1995 Order. The Department's position is that the Bill simply repeals the permit scheme provisions of the 1995 Order and replaces them with the same requirements in the Bill. There is no proposal to change the intentions that are laid out in the 1995 Order.

The Northern Ireland street works registration and notification system — *[Interruption.]*

Mr McCartney:

Three strikes and you are out. I am just letting you know.

Mr I McCrea:

There will be a fixed penalty notice.

The Chairperson:

If that were true, I would get somebody to ring me. *[Laughter.]*

Mr McCartney:

Forty times.

Mr Byrne:

The second point was that the Northern Ireland street works registration and notification system should be used to provide notice of proposed works to utilities and Roads Service. It is the Department's intention to have the system developed to ensure that the notice of works and the permit scheme are managed through that existing system.

NIE said that:

"If a permit scheme is determined to be the most effective way of managing events / works on roads then charges, if any, should only relate to actual costs incurred."

The permit scheme will not be used to manage events; it is purely to manage works on roads. The fees to be applied in relation to permits are intended only to cover the cost of administering the scheme. As NIE suggested, they will relate to actual costs that are incurred.

NIE also stated that:

"A single point of administration control and notification such as a Roads / Street Works Commissioner / Coordinator utilising NISRANS type notification / monitoring system should be appointed to manage all Roads / Street Works activities."

Where similar arrangements have been applied elsewhere, a number of separate road authorities have been involved in the co-ordination of works, and the single point of administration and control has been established to bring together all of those road authorities. Since we have a single road authority, Roads Service already carries out that function on behalf of the Department.

NIE's final point was that:

"no evidence that a permit scheme will enhance the management of disruption on the roads in Northern Ireland and solutions that are developed to suit large urban areas elsewhere may be counterproductive if implemented here."

The Department is satisfied that a permit scheme will assist in the better co-ordination and management of the specified works on roads here, thereby reducing congestion. The permit scheme, as opposed to the notification scheme, will improve clarity about whether works are being carried out appropriately.

We have received a degree of criticism from political representatives, principally through the Public Accounts Committee in its report this time last year, about the management and co-ordination of street works and the work that the utilities are doing. The Public Accounts Committee was concerned about the timescales involved in putting in place necessary legislation

to improve the performance of the utilities. The Department is committed to introducing that legislation as quickly as possible.

Two points were raised by BT Ireland. It expressed concern about:

“the potential impact that the proposed legislation to the current Streetworks Order will have on our ability to deliver service as a leading utility operating within Northern Ireland”.

The Department’s position is that permit scheme arrangements already exist in the 1995 Order, as amended by the Street Works (Amendment) (Northern Ireland) Order 2007. Therefore, the Bill’s impact on utilities will be no different to the impact of the legislation that is in place already.

BT Ireland also expressed concern about costs that will arise from permits, overrun charges, increased administration costs, time delays and additional system costs. Under the terms of the BT Ireland licence, that additional cost will have to be absorbed by the company; it cannot be passed on to the customer. BT Ireland said that fees and fixed penalties should not exceed the cost of operating the scheme.

The Department’s position is that the fees will be designed to cover, but not exceed, the cost of administering the scheme. Fixed penalties and potential overrun charges are penalties in relation to poor performance by the utilities, and, therefore, it will be within the means of the utilities to avoid the increased costs associated with them.

The last two points to which we have a response were raised by the Utility Regulator. The first again relates to costs:

“The implementation of a permit scheme will impose costs on all utilities which will be recovered either through direct charges or through subsidy paid on behalf of consumers. We would hope that these charges will be cost reflective and structured to incentivise behaviours which benefit consumers.”

As I previously indicated, the intention is that permit fees will cover only the cost of administering the scheme. We believe that the permit scheme, through fixed penalty notices and overrun charges, will incentivise the behaviour of utilities to the benefit of customers.

The Utility Regulator’s second point relates specifically to the gas distribution network and the gas utilities:

“For most utilities, charges will be levied for the repair and extension of existing networks which already service most consumers. The cost will be relatively low and will be spread widely across an existing consumer base. However, considerable streetworks remain to be carried out to extend the gas distribution network to new consumers. The introduction of a charge on streetworks will be a significant burden on the development of the gas distribution network which might restrict the economic

development of our gas supply and disadvantage groups of consumers in the process. We recommend that the final bill provides an exemption for the first time provision of gas services to ensure that the development of the gas supply network is not disadvantaged.”

The Department considers that such an exemption would not be appropriate for the primary legislation, but that clause 3(6) of the Bill provides for regulations to discount certain fees and that the need for such discounts could be considered under regulations. The Department also believes that it would be difficult to consider treating one utility differently from another.

The Chairperson:

I assume that the issue of policing the permit scheme will be revisited after a year or so to ensure that the Department is fine in fulfilling that role?

Mr Byrne:

We intend to monitor the performance of the permit scheme to track the number of permits requested and issued and the conditions that have been applied.

The Chairperson:

Will the Committee get a response after a year or so to see how that monitoring is going?

Mr Byrne:

Yes, that can be done.

The Chairperson:

Going through the Planning Appeals Commission can be a very time-consuming process. Any councillors on the Committee who have experience of dealing with it knows that the process can be long and drawn out. Is there merit in raising that as an issue?

Mr Byrne:

Yes, there are certainly clauses in the Bill that will allow us to consider other, more rapid, dispute resolution processes.

The Chairperson:

I understand all of that. However, at the stage of a dispute going to the Planning Appeals Commission, it joins a long train of cases that, even for planning applications, can be quite a drawn-out process.

Dr Murray:

Generally, matters will be resolved before going to the Planning Appeals Commission.

The Chairperson:

I know, but not all issues are resolved.

Dr Murray:

In this case, through normal planning matters, it is in people's interest to take matters to the Planning Appeals Commission, and a large number go to the commission for that reason.

The Chairperson:

I am just raising the issue, because people who have dealt with planning appeals know how drawn out the process can be. Even one or two of those issues going to the Planning Appeals Commission could be a long, drawn out process, even though one went through all the checks and balances.

Mr Gerry Anketell (Department for Regional Development):

The Street Works (Northern Ireland) Order 1995 provides for appeals in certain circumstances to go to the Planning Appeals Commission. In the almost 15 years since the Order was made, the commission has not had a single claim about street works. We hope that that will be indicative of the business that the commission might expect through this process.

Mr Gallagher:

I share the Chairperson's concerns. Although I am relieved to hear that no cases have gone to the Planning Appeals Commission, there is now a change in regulations, and matters may be more contentious under the new arrangements. I am concerned that if a case were to end up with the commission, it would never be got out, given the commission's record on hearing planning appeals. In new circumstances, I am worried about the length of time that the commission might sit on a dispute.

The Chairperson:

You said that the Department believes that the permit scheme will assist and improve the issues raised by BT Ireland. From where does that belief come? Have you done some research?

Mr Byrne:

There is no firm evidence —

The Chairperson:

Was it divine intervention? When I hear that “the Department believes”, I wonder whether you know something that we do not.

Mr Byrne:

The permit scheme is designed so that it will be very clear that works being carried out in the street are either with or without a permit. Without a permit, it is an offence. That level of clarity is not quite as easily defined in the current notification system.

Mr Anketell:

The permit scheme that the Bill addresses widens the existing permit scheme that applies to street works. One main reason why it is being widened is at the request of the utility companies, which were anxious to see a level playing field for all.

The Chairperson:

I know that. I was just saying that when I hear officials say that “the Department believes”, I think that you have a line somewhere that we do not.

Mr W Clarke:

You touched on the Utility Regulator’s comments about the exemption for first-time provision of gas supply. I concur with that view with regard to tackling fuel poverty and the Executive’s priorities for reducing emissions. That is a good way for the Department to reduce emissions and tackle fuel poverty. I hope that the Executive will look favourably on that.

How does the scheme work when a street is closed as a result of an emergency — a burst pipe or whatever? Is a permit required for that, or is that covered by the closure? Will the permit control the times when work begins? I am thinking about peak traffic times. Will there be a sliding scale in relation to the costs of the permit? Again, that is down to traffic flows as well.

Mr Byrne:

It is anticipated that the permit regulations will define categories of works, one of which will be defined as “immediate works” and will include emergency works. Those works may proceed without a permit because of their emergency nature.

The regulations will include and define a series of conditions, which may cover the times when works can be carried out. Moreover, it is anticipated that the permit regulations will cover the various types of roads and the traffic sensitivity. The conditions that are applied to individual permits will relate to the level of traffic disruption that the works are likely to cause.

It is anticipated that the fees will vary depending on the level of disruption, the nature of the road and the nature of the work that is to be carried out.

Mr Kinahan:

I have two or three questions, one of which is about the Northern Ireland Street Works Register and Notification System (NISRANS) and your central point. When will that be ready and working? The Public Accounts Committee criticised how it worked with one or two utilities. You mentioned legislation as well — how long will it take to update the legislation, and how much will it cost?

One or two companies raised the issue of costs. Will the pricing be fully open so that they know the schedule or the sliding scale of costs, whether of time or people, beforehand? Lastly, who will carry out the effective policing that you mentioned earlier? You mentioned a gas exemption. Whoever is in charge in the central point should choose whether gas or other utilities are exempt. One utility should not be exempt if others are not. It is fair ground to have a dynamic scheme on how to let someone in quickly.

Mr Byrne:

We implemented a replacement street works registration NISRANS system on 5 May 2009. That system is up and running and has the capacity to operate the permit scheme rather than a noticing system. The precise detail of what will be involved when we are ready to change from the noticing system to the permit system has not yet been fully developed. However, we have considered the specification that was prepared and the submission from the successful bidders, and we are satisfied that the system already has the capacity to operate a permit scheme when that

comes into play.

Mr Kinahan:

Is it costly?

Mr Byrne:

We do not anticipate that it will be costly compared with the cost of providing the scheme in the first place. We may have to come back to the Committee when we have developed the detail.

I assume that the question about costs relates to permit fees and so on. It is intended that those will be fully open and will be covered in the regulations. It is anticipated that Roads Service will carry out the policing. As for the gas exemption, I take your point; it is difficult to treat one utility differently to all others. The emergency works provision that I referred to earlier will apply to all utilities rather than to the gas utility only.

Miss McIlveen:

The Committee received a response from Omagh District Council about the transfer of powers to councils. It asked whether the transfer of functions working group, which was established to look at the transfer of powers, had discussed issues that are specific to the Bill.

Dr Murray:

That question relates to the second part of the presentation, which is about the powers to close roads. We will come to that.

Miss McIlveen:

Sorry; I thought that you had concluded your presentation. That is fine.

Mr McCartney:

A variety of responses have put what they feel are the gaps in the Bill, and you have outlined your responses. Do you meet with them in order to come to some meeting of minds to satisfy them about your Bill?

Mr Byrne:

I am not sure what the position is in relation to the Bill. We meet the utilities on a regular basis

through the Northern Ireland Road Authority and Utilities Committee. We intend to consult them in relation to the permit regulations and the permit scheme. We have already produced an initial draft of the permit scheme and put it to the utilities for their comments, and we have received responses from them.

Mr McCartney:

At the end of that process, do the utilities give you their view on how they see the Bill as it goes forward? Do they give you some sort of sense of how you have addressed their criticisms and whether or not they are satisfied?

One of your earlier comments was about Phoenix Natural Gas. Phoenix wanted something more definitive, and you said that it was covered by clause 3(2)(d).

Mr Byrne:

Yes.

Mr McCartney:

You can understand how someone might want “may be imposed” tightened to “will be imposed”. The word “may” allows for a judgement call, whereas “will” ensures that conditions are imposed. How do you resolve that issue with Phoenix?

Mr Anketell:

With respect to the resolution of individual points such as that, we are here to give the Department’s line on points that were raised during the Committee’s stakeholder consultation. If the Committee wants us to go back and respond to the points made by consultees, we can do that. Alternatively, if the Committee intends to go back and respond to the points, we will be happy to provide our written response, as Andrew said at the start of the session, for the Committee to do with as it feels fit.

Mr McCartney:

As this moves forward, we have some sort of sense that Phoenix Natural Gas and BT Ireland have raised five points. As a result of our process, you can say that they now feel satisfied on three points, but not on the other two, and here is where we feel the gap is. We can see the strength of what we are taking forward.

Mr Anketell:

Absolutely. I appreciate that. My point is just about choreography. Is it appropriate for us to respond to your stakeholder consultation? We can do that, if that is what you want us to do.

Mr G Robinson:

My point is whether there is anything in the Bill for utilities about reinstating the road again to make sure that that is done properly. In the past there has been a lot of shoddy workmanship done on the roads in reinstatement. Ultimately, that leads to more costs for Roads Service. The road has to be dug up at a later stage as potholes form because the reinstatement work was not properly done.

Mr Byrne:

The permit regulations will include conditions for the issue of permits, including conditions as to the reinstatement of the roads.

Mr G Robinson:

But will the roads be properly reinstated?

Mr Byrne:

The standard to which the road must be reinstated will be specified. After that, it comes down to the Chairman's point about effective policing of the permit regulations.

Mr G Robinson:

Budgets are so tight at present, and a stitch in time saves nine.

Mr Boylan:

I want a bit of clarification about notification. In the past, there have been problems and criticism. I wonder how you will roll out the new permit scheme and who will be responsible. Is it still your intention to work with councils and utilities in getting the message out on road closures? Whose responsibility will it be?

Mr Byrne:

It is intended that the process that is currently in place for road closures will continue. A number

of the criticisms of the notification system have related to late notification for individual works. The issue of late notifications will be addressed in the permit scheme, since no one will be able to carry out works on the road without a permit. It will be clear whether there has been an offence.

Mr Gallagher:

Further to the point that George raised, we all know what goes on: the road is closed for a while; it is reopened and some gravel or dust is thrown in; and, following a couple of good showers, the road is full of potholes. That goes on for a month, then someone returns and puts a bit of tar on it. Six months later, the tar is out. Is there not a better way of ensuring that the job is done to a standard in a short time? I know that it cannot be done in a week, because something might sink or whatever, but, as the regulations stand, it is impossible to get the road put right without Roads Service having to return to it. A bond or whatever is being charged is usually factored into whatever those who are opening the road are charging. They can leave it hanging, and it is a Roads Service problem.

Dr Murray:

There is a detailed code of practice and specification for reinstatements, and we do not intend to change that. If what you say is going on, there is a policing issue there, but it is not a matter for the new primary legislation. We have good standards.

Mr G Robinson:

That is debatable.

Dr Murray:

There is anecdotal evidence, but we are happy to investigate any cases of that.

The points raised by the utilities are either matters that we have been able to deal with through clarification of what is intended, or matters that will be dealt with in one way or another in the regulations that will follow and which will come to the Committee. We do not envisage that they will make any change to the proposed primary legislation.

Mr Harvey Hamilton (Department for Regional Development):

Responses on the powers to close roads for events were submitted by Lisburn City Council, NIE, Northern Ireland Screen, Omagh District Council, Ballymena Borough Council, the Utility

Regulator and the Northern Ireland Local Government Association (NILGA).

Lisburn City Council stated that:

“to provide for only one closure to be allowed on any road in any twelve month period ... may be restrictive.”

Taking Lisburn as an example, the council listed a number of events that take place in the borough. The restriction of closures on roads to one in a 12-month period was removed as a result of an earlier consultation. The Department considered that it should be up to councils to determine how frequently a road should be closed to facilitate events.

NIE felt that:

“Cost recovery powers by the Department / District Councils in relation to traffic management or additional street cleaning costs directly as a result of filming / event should relate to additional costs incurred only, at a no profit rate.”

Paragraph 4 of schedule 1 provides for the recovery by the relevant authority, from the promoter, of costs incurred by it in connection with the event. The relevant authority in respect of special roads is the Department, and, in respect of all other roads, district councils. The Department does not envisage many occurrences when special roads will be used for the purposes of special events, and it will be for district councils to justify the costs reclaimed by them in respect of events.

Northern Ireland Screen considered that:

“the term ‘film’ is overly restrictive. We would propose that film is either defined to include television programmes and commercials or television programmes and commercials should be specifically mentioned in the clauses.”

The Department had envisaged that the filming of television programmes would be covered by the arrangements proposed in the Bill. Consequently, we are content to insert a definition of “film” in the Bill. One definition, which is included in the corresponding GB Bill, is:

“any record, however made, of a sequence of visual images, which is a record capable of being used as a means of showing that sequence as a moving picture”.

[Laughter.]

Mr McCartney:

Give us that again. *[Laughter.]*

Mr H Hamilton:

The Department believes that the use of that definition should meet the requirements of Northern Ireland Screen.

Omagh District Council:

“is concerned that in relation to the transfer of powers to Councils, it appears to be purely transferring an ‘administrative’ role to local government with the objective of the exercise being the reduction of the cost to the Department of processing applications.”

It is also concerned that the Department’s consent is required before a council may make an order to consent to an event. Presently, the Department has no powers to authorise special events on roads and, consequently, there is no cost to the Department in respect of processing applications. Therefore, there are no proposals for the Department to transfer resources associated with events on roads. However, it is worth noting that the Bill’s provisions will enable councils to recover their costs.

The future consent of the Department is considered necessary as the Department will remain the roads authority and alternative traffic management measures may be required to facilitate an event. The Department’s consideration will be required to ensure that any proposed alternative routes are geometrically and structurally appropriate and suitable for the type and volume of traffic that may be expected to use them.

The Department believes that any guidance that it issues to councils regarding the exercise of their functions in relation to special events will serve to strengthen local government and be entirely in keeping with the councils’ wishes for strong local government.

Omagh District Council also enquired whether the transfer of functions working group had considered the issue of funding for the transfer of powers specifically in relation to special events:

“the council is very keen to ensure that appropriate and adequate funding from central government is included in the transferring package.”

As previously stated, the Department has no legislative powers in relation to authorising special events on roads. Consequently, the Bill does not seek to transfer powers in relation to that. As a result, it is not intended that any funding will transfer from the Department. The issue was discussed by the transfer of functions working group, and local government officials noted that the Bill includes provision for councils to recover their costs.

Ballymena Borough Council felt that:

“the substance of the document relates to Council assuming responsibility for aspects of road closures and to the associated issue of permits for particular events. On the basis of elements of roads responsibility coming to Council post R.P.A., Council considers that this proposal of itself would not be an issue, however, there should be a clear understanding that it would be post implementation of R.P.A., and any transfer of resources and financial allocation associated with the new responsibilities.”

The proposal that councils should become responsible for local events on roads was included

in Minister Foster's speech to the Assembly, in March 2008, on the future shape of local government. However, the Department also received representations from a number of other Departments, the PSNI and Northern Ireland Screen regarding the lack of specific powers available to authorities to achieve road closures to facilitate sporting, social and entertainment events. In addition, the PSNI obtained legal advice which suggested that the use of its powers to that end could be held to be inappropriate. Consequently, the provision of powers to achieve road closures was considered desirable. The fact that the legislative proposals have been included in the Roads (Miscellaneous Provisions) Bill rather than in the Department's RPA-related Bill indicates that special events on roads should be treated independently of the RPA proposals.

Paragraph 6 of schedule 1 provides for special events on roads and will be introduced on such days as the Department may by order appoint. This will enable the Department to introduce the powers on a date when appropriate arrangements have been put in place.

The Utility Regulator said:

"Much of our utility services are routed under roads. Faults will occur from time to time and utilities may require emergency access to repair apparatus and restore essential services. Activities in roads (under either the permit scheme or powers to prohibit or restrict the use of roads in respect of special events) might restrict the ability for utilities to access their apparatus. Consideration should be given to how access will be maintained for emergency works. We believe that utilities should not be responsible for the direct or consequential costs to other road users arising from access for emergency works."

The Bill provides for district councils to restrict traffic or close roads for the purposes of facilitating special events on roads where there is no practical alternative. The measures are proposed to rectify a problem that currently exists where the identification of an appropriate authorising body for those types of events is difficult. The Department does not envisage that there will necessarily be more events on roads as a result of the arrangements, but that those events that are held presently will be more adequately provided for in the future.

The Street Works (Northern Ireland) Order 1995 defines "emergency works" and makes provision for their execution. It is not anticipated that those arrangements will change. The matter of emergency works will be addressed in guidance that is being prepared for issue to councils.

Limavady Borough Council commented that:

"various members expressed concern at the implications this Bill may have for local government should minor roads become a responsibility of Ccouncils following the proposed local government reform."

Councils will not become responsible for minor roads under the RPA proposals. There will continue to be a single roads authority here.

NILGA expressed satisfaction with the content of the Bill, but believes that:

“Councils should be given the necessary autonomy to address local priorities with as little direction from central government as possible and thus local government would welcome and encourage the opportunity to engage constructively with the Department in developing regulations and appropriate guidance.”

It is our intention to do just that.

Mr McCartney:

Is there an upper limit on how long a road can be closed for?

Mr H Hamilton:

The Bill imposes no limit.

Mr McCartney:

What is the definition of a “special road”?

Mr H Hamilton:

Essentially, a motorway.

Mr McCartney:

The Bill states:

“A district council may not make an order except with the consent of the Department.”

Can the Department overrule a council’s decision?

Mr H Hamilton:

Yes, if we are not satisfied with the alternative provisions for rerouting or signing.

Mr McCartney:

I do not wish to paint a scenario that may never happen, but say that a film crew were to come to Dungiven and decide that it would be good for the area to close the road for seven days and the Department were to feel that that would cause chaos to other transport. Who would make the final decision?

Mr H Hamilton:

That decision would be made by the council, provided that the Department were content that any alternative routes and diversionary signs were adequate.

Mr W Clarke:

If a council on the north side of the border closes a road, that has an impact on the South. What input is there in regard to that? When someone is deciding on a location for filming, what happens in the South in regard to traffic management plans, stewarding and policing? That is an additional burden of costs. Is what we are proposing here replicated in the South? Someone could decide to film in the South, and not here, because there is too much bureaucracy in the North. Has any thought been given to that?

Mr H Hamilton:

The arrangements in the South are a bit more flexible in that the Minister makes the decision on which roads can and cannot be closed. In the South, a scale of fees for closures is published. Our charges have to be evidence-based so that they represent the cost to the council in executing the closure.

Dr Murray:

You also mentioned the issue of events on cross border roads. When Roads Service considers the impact on traffic, it considers the flow of traffic coming from the south of the border or from the north to the south.

Mr W Clarke:

I would like some information on that.

The Chairperson:

Who compensates an event promoter when emergency access is required to a road that is closed for the event?

Dr Murray:

We will have to consider that eventuality, and, indeed, whether it is a matter for primary legislation or not. We will come back to the Committee on that. We have not faced that issue before, but, obviously, it is a possibility.

The Chairperson:

We are trying to tease out any difficulties in the Bill. Promoters put large amounts of money into some of these events. If something goes wrong and the event does not take place, the promoter cannot simply tell the artist that he or she will not be getting paid because there was an emergency. It is not just one individual artist; there could be roadies and groups. Therefore, we want to see who would be legally responsible.

Mr G Robinson:

Will the North West 200 be covered by the Bill?

The Chairperson:

The Bill covers any event.

Mr W Clarke:

Agriculture shows.

The Chairperson:

Anything at all.

OK? Thanks very much.