



# Transport (Scotland) Act 2019

## 2019 asp 17

### PART 2

#### LOW EMISSION ZONES

### CHAPTER 2

#### CREATION AND MODIFICATION OF A LOW EMISSION ZONE SCHEME

##### *Process*

#### **9 Power to make or modify a low emission zone scheme**

- (1) At any time, a local authority may (in accordance with this Chapter)—
  - (a) make a low emission zone scheme for all or part of its area,
  - (b) amend or revoke a low emission zone scheme made by it.
- (2) Where two or more local authorities act jointly to make a low emission zone scheme—
  - (a) they must continue to act jointly in relation to the scheme in all respects, and
  - (b) a reference to the area of a local authority is a reference to the combined areas of those authorities.

#### **10 Ministerial approval**

- (1) A low emission zone scheme cannot be made, amended or revoked unless the proposal to make, amend or revoke the scheme is approved by the Scottish Ministers.
- (2) When seeking the approval of the Scottish Ministers for such a proposal, the local authority must provide a statement setting out—
  - (a) details of the consultation it has undertaken under section 11, and
  - (b) how it has taken account of any representations received in the course of that consultation.

- (3) In approving the making, amendment or revocation of a low emission zone scheme, the Scottish Ministers may make such modifications to the proposal as they consider appropriate.
- (4) In considering whether to approve the making, amendment or revocation of a low emission zone scheme, the Scottish Ministers—
  - (a) must take into account the statement provided by the local authority under subsection (2), and
  - (b) may consult, or require the local authority whose proposal it is to consult, such persons as Ministers consider appropriate.

## 11 Prior consultation

Before a local authority asks the Scottish Ministers to approve the making, amendment or revocation of a low emission zone scheme, it must consult—

- (a) the Scottish Environment Protection Agency,
- (b) Scottish Natural Heritage,
- (c) Historic Environment Scotland,
- (d) such persons as the authority considers represent the interests of—
  - (i) the road haulage industry,
  - (ii) the bus and coach industry,
  - (iii) the taxi and private hire car industry,
  - (iv) local businesses, and
  - (v) drivers,
 likely to be affected by the proposal,
- (e) such persons (if any) as are specified by the Scottish Ministers in regulations,
- (f) such other persons as the authority considers appropriate.

## 12 Examination of proposals

- (1) This section applies where a local authority proposes to make, amend or revoke a low emission zone scheme.
- (2) Either—
  - (a) the local authority making the proposal, or
  - (b) the Scottish Ministers,
 may (if it or they consider it appropriate) appoint a person (“the reporter”) to carry out an examination of, and prepare a report on, the proposal or any aspect of it.
- (3) The reporter may carry out an examination in such manner as the reporter considers appropriate and may, in particular, do so by means of—
  - (a) consideration of written representations only,
  - (b) conducting a hearing at which a person who has made representations in respect of the proposal may be given an opportunity to appear and be heard, or
  - (c) holding an inquiry into the proposal.
- (4) Subsections (3) to (5) of section 210 of the Local Government (Scotland) Act 1973 (provisions relating to local inquiries) apply in relation to a hearing or inquiry under subsection (3) of this section as they apply in relation to an inquiry under that Act.

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- (5) Where an examination is to be carried out, the local authority may not proceed with the proposal until the examination has been completed.
- (6) The Scottish Ministers may by regulations make further provision in relation to examinations to be carried out under this section.
- (7) Without limit to that generality, such regulations may make provision—
  - (a) about who may be appointed to carry out an examination under this section,
  - (b) about the procedure for examinations under this section and, in particular, in relation to—
    - (i) any representations which are (or are not) to be taken into account,
    - (ii) who may appear at a hearing or inquiry,
    - (iii) the procedure for the conduct of any hearing or inquiry,
    - (iv) things which must be done in preparation for, or following, a hearing or inquiry,
  - (c) in relation to the financial aspects of an examination and, in particular, about the payment of remuneration, costs and expenses,
  - (d) in relation to the report to be prepared including, in particular, its form, content and publication.

### **13 Ministers' power to regulate process**

The Scottish Ministers may by regulations make provision about the procedures in relation to low emission zone schemes including, in particular, provision—

- (a) specifying the form of a scheme, or any amendment to or revocation of it,
- (b) about consultation on proposals (including the publication of proposals and the making and consideration of representations),
- (c) about the publication of notice of the making, amendment or revocation of a scheme and of their effect.

### *Content*

### **14 Required content of a scheme**

- (1) A low emission zone scheme must specify—
  - (a) the zone to which it relates, which must be specified—
    - (i) by reference to an area on a map, and
    - (ii) by specifying the roads (or parts of a road) which form part of the zone,
  - (b) the date on which the scheme comes into effect,
  - (c) the types of vehicles to which it applies, which must be specified by reference to the vehicles' construction (and subject to any exemptions specified by the Scottish Ministers in regulations under section 6(4)(b)),
  - (d) the scheme's objectives,
  - (e) the grace periods applicable under section 15.
- (2) Where a low emission zone scheme is made by two or more local authorities jointly, the scheme must make provision as to how any monies received from penalty charges in respect of the scheme are to be apportioned between (or among) those authorities.

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- (3) For the purpose of subsection (1)(a)(ii), a low emission zone scheme may not specify—
- (a) a private road, or
  - (b) a special road,
- within the meaning of section 151(1) of the Roads (Scotland) Act 1984.
- (4) The objectives specified under subsection (1)(d) must include—
- (a) an objective of contributing towards meeting the air quality objectives prescribed under section 87(1) of the Environment Act 1995 (regulations about air quality), and,
  - (b) an objective of contributing towards meeting the emission reduction targets set out in Part 1 of the Climate Change (Scotland) Act 2009.
- (5) A scheme may make different provision for different purposes, types of vehicles, or areas.

## 15 Grace period

- (1) Section 6(1) is not contravened by a vehicle being driven on a road within a low emission zone prior to the expiry of the applicable grace period.
- (2) In subsection (1), “the applicable grace period” means the period that the low emission zone scheme specifies as applying—
- (a) in relation to the road, or part of the road, on which the vehicle was driven,
  - (b) in relation to the type of vehicle being driven, by reference to its construction, and
  - (c) to the individual who is the registered keeper of the vehicle.
- (3) A low emission zone scheme must specify—
- (a) a grace period that applies to individuals whose registered address in respect of the vehicle is a residential property within the zone (“residents”),
  - (b) a grace period that applies to individuals whose registered address is not (“non-residents”), and
  - (c) in relation to both paragraphs (a) and (b), the types of vehicle to which the grace period applies (which may vary as between residents and non-residents).
- (4) A grace period begins on the day the low emission zone scheme comes into effect.
- (5) The grace period applicable to non-residents must expire—
- (a) not less than 1 year after it begins, and
  - (b) not more than 4 years after it begins.
- (6) The grace period applicable to residents must expire not more than 2 years after the expiry of the grace period applicable to non-residents.
- (7) Subsections (4) to (6) are subject to section 16.

## 16 Grace periods: further provision

- (1) Subsections (2) to (5) apply where a road or part of a road—
- (a) forms, or has formed, part of a zone to which a low emission zone scheme (“the original scheme”) relates, and

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- (b) is to become, within 12 months of the original scheme ceasing to have effect in relation to the road or part of a road, part of a zone to which a low emission zone scheme (“the subsequent scheme”) relates.
- (2) If—
  - (a) a grace period is specified as applying to the road or part of a road in the original scheme, and
  - (b) that period has expired, or is due to expire, before the road or part of a road becomes part of the zone to which the subsequent scheme relates,no grace period of the same type may be specified as applying to the road or part of a road in the subsequent scheme.
- (3) For the purposes of subsection (2), grace periods are of the same type as one another if they are both specified (or to be specified) in accordance with the same subsection of section 15.
- (4) If—
  - (a) a grace period is specified as applying to the road or part of a road in the original scheme, and
  - (b) that period is not due to expire before the road or part of a road becomes part of the zone to which the subsequent scheme relates,subsection (5) applies.
- (5) In the circumstances described in subsection (4), the maximum length of the grace period that may be specified as applying to the road or part of a road in the subsequent scheme is to be reduced by the length of time that a grace period will have applied to the road or part of a road when it becomes part of the zone to which the subsequent scheme relates.
- (6) Where—
  - (a) a low emission zone scheme is modified to include a road or part of a road that did not previously form part of the zone to which the scheme relates, and
  - (b) the road or part of a road has not formed part of a zone to which a low emission zone scheme relates within the period of 12 months prior to the modification taking effect,subsection (7) applies.
- (7) In the circumstances described in subsection (6)—
  - (a) grace periods must be specified as applying to the road or part of a road in the modified scheme mentioned in subsection (6)(a), and
  - (b) those periods are to be specified on the basis that—
    - (i) section 15(4) does not apply, and
    - (ii) the grace periods begin on the day the modification takes effect.

## **17 Time-limited exemptions**

- (1) A low emission zone scheme may provide for the granting and renewal, by the local authority which made the scheme, of a time-limited exemption in respect of a vehicle or type of vehicle for the purpose of section 6(1)(b), by reference to the vehicle’s use.
- (2) Where a low emission zone scheme makes provision for time-limited exemptions under subsection (1), it must specify—

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- (a) the circumstances in which the local authority must, may or must not grant or renew an exemption,
  - (b) the maximum period for which an exemption may be granted (which must be no longer than 1 year).
- (3) A low emission zone scheme must—
- (a) provide for the granting and renewal, by the local authority which made the scheme, of a time-limited exemption for the purpose of section 6(1)(b) in respect of vehicles which enter the zone to which the scheme relates solely due to their following a signed diversion as a result of a temporary road closure, and
  - (b) specify the maximum period for which such an exemption is granted (which must be no longer than the length of the road closure).
- (4) A time-limited exemption granted or renewed by virtue of subsection (1) or (3) is subject to such conditions or restrictions as are specified by the local authority in the grant or renewal.

## **18 Power to alter operating hours**

- (1) Subject to subsection (2), a low emission zone operates at all times.
- (2) A low emission zone scheme may specify different rules as to when a zone operates.

## **19 Ministers' power to specify additional content**

The Scottish Ministers may by regulations prescribe further information that may or must be included in a low emission zone scheme.