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SCOTTISH STATUTORY INSTRUMENTS

2002 No. 292

TRANSPORT

The Home Zones (Scotland) (No. 2) Regulations 2002

<i>Made</i>	- - - -	<i>10th June 2002</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>10th June 2002</i>
<i>Coming into force</i>	- -	<i>1st July 2002</i>

The Scottish Ministers, in exercise of the powers conferred by sections 74(4) and 81(2) of the Transport (Scotland) Act 2001(1), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Home Zones (Scotland) (No. 2) Regulations 2002 and shall come into force on 1st July 2002.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Transport (Scotland) Act 2001;

“authority” means the local traffic authority making, or proposing to make, a designation in respect of a road;

“designate” means designate as a home zone under section 74(1) of the Act, and “designated” and “designation” shall be construed accordingly;

“Crown road” and “the appropriate Crown Authority” have the same meanings as in section 131(7) of the Road Traffic Regulation Act 1984(2);

“fire authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(3) or, where the area of the fire authority forms part of a combined area for fire-fighting purposes, the joint board for fire services for that combined area;

(1) 2001 asp 2.

(2) 1984 c. 27. Section 131(7) was amended by the Roads (Scotland) Act 1984 (c. 54), Schedule 9, paragraph 93(41)(b) and the New Roads and Street Works Act 1991 (c. 22), Schedule 8, paragraph 75.

(3) 1994 c. 39.

“notice of proposals” in relation to a designation, means the notice required to be published under regulation 6;

“Passenger Transport Authority” has the same meaning as in section 9 of the Transport Act 1968(4);

“public passenger transport services” has the same meaning as in section 63(10)(a) of the 1985 Act (5);

“relevant map”, in relation to an designation, means the map required by regulation 13 to be prepared and kept in connection with that designation; and

“restricted road” has the same meaning as in section 82(1)(b) of the Road Traffic Regulation Act 1984(6).

(2) A reference in these Regulations to anything done in writing includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000(7), which has been recorded and is consequently capable of being reproduced.

Class of road that may be designated

3. An authority may make a designation only in respect of a restricted road.

Preliminary consultation

4.—(1) If an authority proposes to designate any road, it shall carry out a preliminary consultation with those having an interest in land on, adjoining or adjacent to the road it proposes to designate as specified in paragraph (5) in accordance with the following paragraphs.

(2) The authority shall prepare a notice of their intention to designate that road.

(3) Any such notice shall provide details of the road that the authority intend to designate and the proposals that the authority intends to implement in respect of that road.

(4) The authority shall intimate the notice to all persons having an interest in land on, adjoining or adjacent to the road it intends to designate as specified in paragraph (5) and any other organisation or individual that the authority considers is likely to be affected by the proposed designation.

(5) The persons holding an interest in land to whom the authority shall intimate the notice are—

(a) in the case of lands and heritages entered in the valuation roll at the date of intimation, the persons appearing in the valuation roll in force at the time as being the owners, lessees and occupiers of those lands and heritages; and

(b) in the case of lands and heritages not entered in the valuation roll at the date of intimation, the owners and occupiers of those lands and heritages.

(6) The notice shall invite any person to whom it is intimated to comment upon the detail of the proposals contained in the notice, and the said person may make written representations to the authority concerning the detail of the proposals contained in the notice within such period as may be specified in the notice, which shall be not less than 28 days from the date on which notice is given.

(7) The authority shall consider any written representations made to it in accordance with paragraph (6), before consulting on its proposals under regulation 5.

(4) 1968 c. 73.

(5) The Transport Act 1985 (c. 67).

(6) The words in section 82(1) were substituted by the New Roads and Street Works Act 1991, section 168(1) and Schedule 8, paragraph 59. The classification or type of road is specified in the Restricted Roads (Classification or Type) (Scotland) Regulations 1985 (S.I.1985/1888).

(7) 2000 c. 7.

Detailed consultation

5.—(1) After considering any written representations made to it in accordance with regulation 4(6), if the authority intends to proceed to designate the relevant road, it shall carry out a consultation in accordance with this regulation.

(2) The authority shall, in any case specified in column (2) of an item in the table below, notify the persons specified in column (3) of the item in writing of its intention to designate the road and provide those persons with details of the proposals that the authority intends to implement in respect of that road, a plan of the area in the vicinity of that road and an explanation of the extent to which the designation will implement the measures for securing the purposes mentioned in section 74(2) of the Act.

TABLE

(1) <i>Item</i>	(2) <i>Case</i>	(3) <i>Consultee</i>
1.	Where the designation appears to the authority to be likely to affect traffic on a road for which another authority is the local traffic authority.	The other authority.
2.	Where the designation appears to the authority to be likely to affect traffic on a Crown road.	The appropriate Crown authority.
3.	Where the designation appears to the authority to be likely to affect traffic on a road on which public passenger transport services are provided.	The operator of the service and the appropriate Passenger Transport Authority.
4.	All cases	<p>(a) (a) The chief constable of any police force for the police area in which any road to be designated is situated.</p> <p>(b) any person with an interest in land on, adjoining or adjacent to the road to be designated of the kind described in regulation 4(4).</p> <p>(c) The Road Haulage Association.</p> <p>(d) The Freight Transport Association.</p> <p>(e) Such other organisations (if any)</p>

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(1) <i>Item</i>	(2) <i>Case</i>	(3) <i>Consultee</i>
		<p>representing persons or individuals likely to be affected by any provision in the designation as the authority thinks appropriate.</p> <p>(f) The chief officer of the Scottish Ambulance Service.</p> <p>(g) The fire authority.</p>

(3) Any person notified of the authority's proposals under paragraph (2) may make written representations to the authority on the measures contained in the proposed designation.

(4) Any representations made under paragraph (3) shall be submitted to the authority within 3 months of the date on which the authority notified the relevant person in accordance with paragraph (2).

- (5) Before publishing its proposals in accordance with regulation 6, the authority shall—
- (a) consider any representations made under paragraph (3); and
 - (b) prepare and publish a report detailing the persons notified under paragraph (2), any representations made under paragraph (3) and the extent to which the authority will vary its proposals to take account of any representations so made.
- (6) A copy of any report published under paragraph (5)(b) shall be—
- (a) available for inspection at the authority's offices and any local library during normal office hours;
 - (b) if the authority considers it appropriate, available for inspection at such other places within the authority's area and during such times respectively at those places as the authority may determine;
 - (c) sent to any person who has made representations under paragraph (3).

Publication of proposals

6. After complying with the requirements in regulation 5, the authority shall—
- (a) publish at least once in a local newspaper circulating in the area in which any road to which the designation relates is situated a notice of proposals containing the particulars specified in Part I of Schedule 1;
 - (b) send a copy of the notice of proposals containing the particulars specified in Part I of Schedule 1 to each person whom it was required to consult under regulation 5;
 - (c) take such other steps as it may consider appropriate for ensuring that adequate publicity about the designation is given to persons likely to be affected by its provisions and, without prejudice to the generality of this sub-paragraph, such other steps may include—
 - (i) publication of a notice in the Edinburgh Gazette;
 - (ii) the display of notices in accordance with Schedule 2 in roads or other places affected by the designation; or

- (iii) the delivery of notices or letters to all residents, residents associations and premises, appearing to the authority to be likely to be affected by any provision in the designation;
- (d) make available for inspection in accordance with Schedule 3 the documents mentioned in that Schedule.

Objections

7.—(1) Before the end of the objection period mentioned in paragraph (3), any person may object to the making of the designation (any person making any such objection being hereinafter referred to as an “objector”).

(2) Any objection made under paragraph (1) shall contain a written statement of the grounds of the objection and shall be sent to the address specified in the notice of proposals published in accordance with regulation 6(a).

(3) The objection period shall be such period of not less than 42 days from the date on which the relevant notice of proposals is published under regulation 6(a) as may be specified in that notice.

(4) If no objections have been made by the end of the objection period, or any objections made have been withdrawn by that date, the authority may proceed to make the designation of the relevant road.

Hearing

8.—(1) Before designating any road the authority shall hold a hearing in connection with that designation where an objection has been made under regulation 7 and not withdrawn.

(2) Any hearing shall be conducted by an independent person (hereinafter referred to as “the reporter”) appointed by the authority from a list of persons compiled by the Scottish Ministers for that purpose.

(3) The date of the hearing shall not be earlier than 28 days after the publication of the notice referred to in regulation 9(1).

Notice of hearing

9.—(1) Where a hearing is to be held, not earlier than the expiry of the objection period referred to in regulation 7(3), the authority shall publish at least once in a local newspaper circulating in the area in which any road to which the designation relates is situated a notice of the hearing containing the particulars specified in Part II of Schedule 1.

(2) Where a hearing is to be held the authority shall forthwith give notice in writing to any objector informing that objector that—

- (a) if within such period, being not less than 14 days, as is specified in the notice, intimation is given to the authority that the objector desires to be heard in support of the objection, an opportunity will be afforded of being heard;
- (b) the objector may submit written representations in support of the objection as an alternative to being heard at the hearing and that any such written representations should be submitted prior to the date set for the hearing; and
- (c) if the objector does not intimate that the objector wishes to be heard in support of the objection or submit written representations prior to the date set for the hearing, then the objection will be deemed to be withdrawn unless the objector confirms in writing that the objector wishes the objection to be maintained.

(3) If any objector given such notice intimates a desire to be heard the authority shall notify the objector in writing of the arrangements for the hearing not less than 14 days before the date on which the hearing is to take place.

(4) If any objector does not timeously—

- (a) give such intimation as is referred to in paragraph 2(a);
- (b) submit such written representations as are referred to in paragraph 2(b); or
- (c) give confirmation in writing that the objection is to be maintained as referred to in paragraph 2(c),

then the objection made by that objector shall be deemed to be withdrawn.

(5) If at any time prior to the date set for the hearing, as a result of any objection being deemed to be withdrawn in accordance with paragraph (4), all objections have been withdrawn or are deemed to have been withdrawn, the authority may cancel the hearing and proceed to make the designation without any hearing taking place.

Procedure at hearing

10.—(1) Subject to the following paragraphs of this regulation, the procedure at the hearing shall be determined by the reporter.

(2) The hearing shall be held in public.

(3) The reporter may allow an objector or person interested in the subject matter of the hearing to be heard in person or be represented by an authorised representative.

(4) The reporter shall consider any written representations submitted by any objector or any other person interested in the subject matter of the hearing.

(5) If all objectors submit written representations to the hearing, and no objector has intimated a desire to be heard in support of their objections, then the reporter may require the authority to submit representations in writing in place of holding a hearing.

(6) The reporter may refuse to hear any person, or allow to be put forward for consideration at the hearing any representations made by any person, if the reporter is satisfied that such representations are frivolous or vexatious or that such views have already been adequately stated by some other person at the hearing.

(7) If any objector who has intimated a desire to be heard at the hearing fails to attend the hearing, the objection made by that objector may be deemed to be withdrawn.

(8) If at any time, whether as a result of any objection being deemed to be withdrawn in accordance with paragraph (7) or otherwise, all objections to a designation have been withdrawn or are deemed to have been withdrawn, then the reporter shall abandon the hearing forthwith notify the authority in writing that all objections have been withdrawn and the authority may proceed to make the designation without any further hearing taking place.

Consideration of objections and report

11.—(1) At the conclusion of the hearing, or following receipt of all written representations where a hearing is not required by virtue of regulation 10(5), the reporter shall prepare a report and may make recommendations.

(2) On receipt of the reporter's report, the authority shall, prior to submitting the designation to the Scottish Ministers for confirmation under regulation 12, either—

- (a) vary the proposed designation so as to implement the recommendations contained in any report prepared by the reporter in accordance with paragraph (1); or

- (b) in so far as the authority is unable or unwilling to implement any of those recommendations, the authority shall prepare a report for the Scottish Ministers explaining why the said recommendations will not be implemented.

Confirmation by the Scottish Ministers

12.—(1) In any case where a report has been produced by the reporter in accordance with regulation 11(1), no designation shall be made by the authority unless the Scottish Ministers confirm that such a designation may be made.

(2) In considering whether or not to confirm that the authority may make the designation the Scottish Ministers shall take account of—

- (a) the report prepared by the reporter in accordance with regulation 11(1), and
- (b) any report prepared by the authority under regulation 11(2)(b).

The relevant map

13. The authority shall prepare and keep in connection with the designation for so long as the designation remains in force a map in accordance with the requirements set out in Schedule 4.

Notice of making the designation

14. When the authority has made the designation it shall—

- (a) forthwith give notice in writing of the making of the designation to the chief constable of the police area in which any road to which the designation relates is situated;
- (b) notify in writing each objector whose objection was not withdrawn, of the authority's reasons for making the designation in spite of the objection;
- (c) within 14 days of the making of the designation publish once in a local newspaper circulating in the area in which any road to which the designation relates is situated a notice of the making of the designation containing the particulars specified in Part III of Schedule 1;
- (d) if considered necessary by the authority, within the same period publish a similar notice in the Edinburgh Gazette; and
- (e) comply with the relevant requirements of Schedule 3 as to the availability of documents for inspection.

Varying and revoking designations

15.—(1) At any time after making a designation the authority may vary or revoke the designation so made.

(2) When varying or revoking any designation the authority shall—

- (a) comply with the requirements set out in regulations 4 to 12 and 14 as though the references to making the designation were references to varying or revoking the designation; and
- (b) in any case where the authority is varying the designation, vary the map prepared in accordance with regulation 13 in accordance with the requirements set out in Schedule 4 to take account of the variation to the designation.

Reports on the designation

16.—(1) The authority shall prepare and publish a report under section 74(3) of the Act within 12 months of the date on which the designation was made.

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(2) Where the measures to be implemented for securing the purpose or purposes for which the designation was made have not been completed within 12 months the authority shall, in addition to preparing and publishing a report under paragraph (1), prepare and publish further reports under section 74(3) of the Act, at intervals of not more than 12 months until the said measures have been completed.

Revocation

17. The Home Zones (Scotland) Regulations 2002⁽⁸⁾ are hereby revoked.

St Andrew's House,
Edinburgh
10th June 2002

LEWIS MacDONALD
Authorised to sign by the Scottish Ministers

(8) [S.S.I. 2002/177](#).

SCHEDULE 1

Regulations 6(a) & (b), 9(1) & 14(c)

PARTICULARS TO BE INCLUDED IN PRESS NOTICES

PART I

PARTICULARS TO BE INCLUDED IN THE NOTICE OF PROPOSALS

1. The name of the authority.
2. A description of the road to be designated.
3. A statement of the general nature and effect of the proposed designation.
4. Where the designation relates to an off-street parking place, a brief description of that place and of its location.
5. Each address at which a copy of the proposed designation, and a copy of the authority's statement of reasons for proposing to make the designation can be inspected, and the times when inspection can take place at each such address.
6. The date of the end of the objection period calculated in accordance with regulation 7(3), the address at which objections to the designation can be lodged, and a statement that all objections must be made in writing and must specify the grounds thereof.

PART II

PARTICULARS TO BE INCLUDED IN THE NOTICE OF A PUBLIC HEARING BEFORE AN INDEPENDENT PERSON

1. The name of the authority.
2. A description of the road to be designated.
3. A statement which refers to the published notice of proposals for the designation and which indicates that a public hearing will be held in connection with the designation.
4. A brief statement of the general nature and effect of the designation and of the name or other brief description of any road or other place to which the designation will apply.
5. The date, time and place of the hearing and the name of the person appointed to hold the hearing.
6. Each address at which a copy of the proposed designation, and a copy of the authority's statement of reasons for proposing to make the designation can be inspected, and the time when inspection can take place at each such address.

PART III

PARTICULARS TO BE INCLUDED IN THE NOTICE OF MAKING THE DESIGNATION

1. The name of the authority.
2. A description of the designated road.
3. The date of the making of the designation and its operative date or dates.

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4. The issue number, if any, and date of issue of the newspaper or if applicable of the Edinburgh Gazette containing the relevant notice of proposals previously published pursuant to regulation 6.
5. Each address at which a copy of the designation, as made, and a copy of the relevant map can be inspected, and the times when inspection can take place at each such address.

SCHEDULE 2

Regulation 6(c)(ii)

REQUIREMENTS AS TO NOTICES TO BE DISPLAYED IN A ROAD OR OTHER PLACE

PART I

PARTICULARS TO BE INCLUDED IN THE NOTICE

1. The name of the authority.
2. A description of the designated road.
3. A statement of the effect of the designation in relation to the road or other place where it is displayed including details of its purpose design and facilities.
4. An address at which a copy of the proposed designation, and a copy of the authority's statement of reasons for proposing to make the designation can be inspected, and the times when such inspection can take place.
5. Where the notice is a notice of proposals, the address to which, and the date on or before which objections to the designation can be made, such date being the date of the end of the objection period mentioned in regulation 7(3), and a statement that all objections must be made in writing and must specify the grounds thereof.
6. Where the notice announces the holding of a public hearing by a reporter, the date, time and place of the hearing and the name of the person appointed to hold the hearing.

PART II

OTHER REQUIREMENTS AS TO THE DISPLAY OF THE NOTICE

1. Where the designation relates to any road, the notice shall be displayed in a prominent position at or near each end of the road and in such other positions as the authority think requisite for securing that adequate information about the subject matter of the notice is given to persons using the road.
2. The notice shall first be displayed at the same time as the corresponding notice is first published in the local newspaper and the authority shall take all reasonable steps to ensure that it remains in a legible condition and continues to be so displayed—
 - (a) in the case of a notice of proposals, until the end of the objection period;
 - (b) in the case of a notice announcing the holding of a public hearing before an independent person, until the date on which the hearing begins.

SCHEDULE 3

Regulations 6(d) & 14(e)

REQUIREMENTS AS TO THE AVAILABILITY OF DOCUMENTS FOR INSPECTION

1. There shall be available for inspection at the authority's offices and a local library during normal office hours, and (if the authority thinks fit) at such other places within the authority's area and during such times as the authority may determine, the following documents:—

- (a) a copy of the designation as drafted or made, as the case may be;
- (b) a copy of the relevant map;
- (c) in the case of a designation which varies or revokes a previous designation, a copy of the designation varying or revoking the previous designation and its relevant map;
- (d) a copy of a statement setting out the authority's reasons for proposing to make the designation; and
- (e) in the case of a designation made after the holding of a hearing, a copy of the report and the recommendations (if any) of the reporter.

2. The said documents shall be made available not later than the date of the first publication in the local newspaper of the notice in connection with which they are required to be made available, and they shall continue to be so available—

- (a) where the notice is a notice of proposals, until the end of the objection period;
- (b) where the notice is one announcing the holding of a hearing, until the date on which the hearing begins; and
- (c) where the notice is a notice of making the designation, until the end of 6 weeks from the date on which the designation is made.

SCHEDULE 4

Regulation 13

REQUIREMENTS AS TO THE MAP

1. The map shall clearly indicate by distinctive colours, symbols or markings—

- (a) each road to which the designation relates; and
- (b) in a case where any provision of the designation prohibits the use of a road by all vehicles, or by all vehicles of a particular class, the alternative route available for the vehicles to which the provision applies.

2. Where the map is neither specifically referred to in the text of the designation nor made a part of the designation, the map shall be for the purposes of illustration only and the matter indicated on it shall not prevail over the actual text of the designation in the event of any discrepancy between the map and the text.

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EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations make provisions as to the procedures that local traffic authorities have to follow prior to designating as a home zone any road for which it is the traffic authority.

Regulation 3 specifies classes of road that may be designated.

Regulations 4 and 5 detail the consultation procedures to be followed prior to making a designation.

Regulation 6 and Schedules 1, 2 and 3 specify where the proposals are to be published following a consultation, the content of the proposals and where they will be available for public inspection.

Regulations 7 to 11 specify the procedures for dealing with objections and hearing of objections.

Regulation 12 provides where an objection has been made and a hearing held no designation can be made unless the designation is first confirmed by the Scottish Ministers.

Regulation 13 requires that the authority keep a map in accordance with the requirements of Schedule 4.

Regulation 14 specifies the procedure that the authority has to follow when the designation has been made.

Regulation 15 provides the details of the procedure to be followed when varying or revoking designations.

Regulation 16 provides further details in relation to reports which are required under section 74(3) of the Act.