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STATUTORY INSTRUMENTS

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**1999 No. 614**

**The Local Authorities' Traffic Orders  
(Procedure) (Scotland) Regulations 1999**

**PART I  
GENERAL**

**Citation, commencement and extent**

**1.** These Regulations may be cited as the Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999, shall come into force on 1st April 1999 and shall apply in Scotland only.

**Interpretation**

**2.—(1)** In these Regulations the following expressions have the meanings hereby respectively assigned to them:—

“the Act” means the Road Traffic Regulation Act 1984;

“authority”, in relation to an order, to which these Regulations apply means the local traffic authority making, or proposing to make, the order under the Act;

“concessionaire” means the person to whom rights under a toll order to charge and to collect tolls have been assigned under Part II of the New Roads and Street Works Act 1991(1);

“consolidation order” means an order which revokes provisions of one or more existing orders, reproduces those provisions without any change in substance and makes no other provision, but so, however, that for the purpose of this definition the following shall not be regarded as a change in substance, namely, the inclusion in the order (by way of an addition to the provisions of any existing order or orders) of an exemption required by the Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (Scotland) Regulations 1971(2), in respect of a disabled person's vehicle, or of a provision conferring on a traffic warden functions similar to those conferred by the existing order or orders on a police constable in uniform or of both such exemption and such provision;

“Crown road” and “the appropriate Crown Authority” have the same meanings as in section 131(7) of the Act(3);

“fire authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(4) 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;

“notice of proposals” and “notice of making”, in relation to an order, mean respectively the notices required to be published under regulations 5 and 17;

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(1) 1991 c. 22.

(2) S.I.1971/1521, amended by S.I. 1975/881 and 1975/1586.

(3) 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, Schedule 8, paragraph 75.

(4) 1994 c. 39.

“NHS Trust” has the same meaning as in section 108(1) of the National Health Service (Scotland) Act 1978<sup>(5)</sup>;

“order” means, in relation to anything occurring or falling to be done before its making, an order as proposed to be made, and in relation to anything occurring or falling to be done on or after its making, that order as made;

“public passenger transport services” has the same meaning as in section 63(10)(a) of the Transport Act 1985<sup>(6)</sup>;

“relevant map”, in relation to an order, means the map required by regulation 15 to be prepared and kept in connection with that order; and

“toll order” has the same meaning as in Part II of the New Roads and Street Works Act 1991.

(2) Any reference in these Regulations to an order under any section of the Act includes a reference to an order varying or revoking an order made, or having effect as if made, under that section.

(3) Except where otherwise expressly provided, any reference in these Regulations to a numbered regulation or Schedule is a reference to the regulation or Schedule bearing that number in these Regulations and a reference in a regulation or Schedule to a numbered paragraph is a reference to the paragraph bearing that number in that regulation or Schedule.

### Application of Regulations

3.—(1) Subject to regulation 21, these Regulations apply to orders made or proposed to be made by an authority under any of the following provisions of the Act, that is to say, sections 1, 9, 19, 29, 32, 35, 37, 38, 45, 46, 49(2) and (4), 83(2) and 84.

(2) Except where otherwise stated, each regulation applies to every such order.

(3) Except where otherwise stated, these Regulations apply to an order under any of the provisions of the Act mentioned in paragraph (1) made or proposed to be made by an authority in pursuance of a direction of the Secretary of State under paragraphs 1 and 2 of Schedule 9 to the Act in the same way as it applies to an order in relation to which no such direction has been given.

## PART II

### PROCEDURE BEFORE MAKING THE ORDER

#### Consultation

4.—(1) Before making an order in a case specified in column (2) of an item in the table below, the authority shall consult the persons specified in column (3) of the item.

TABLE

<i>(1)</i> <i>Item</i>	<i>(2)</i> <i>Case</i>	<i>(3)</i> <i>Consultee</i>
1.	Where the order relates to, or appears to the authority to be likely to affect traffic	The other authority

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<sup>(5)</sup> 1978 c. 29; section 108(1) was amended by the National Health Service and Community Care Act 1990 (c. 19), Schedule 9, paragraph 19.

<sup>(6)</sup> 1985 c. 67.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

<i>(1)</i> <i>Item</i>	<i>(2)</i> <i>Case</i>	<i>(3)</i> <i>Consultee</i>
	on, a road for which another authority is the local traffic authority	
2.	Where the order relates to, or appears to the authority to be likely to affect traffic on a Crown road	The appropriate Crown authority
3.	Where the order relates to, or appears to the authority to be likely to affect traffic on a road subject to a toll order	The concessionaire
4.	Where the order relates to, or 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
5.	Where it appears to the authority that the order is likely to affect the passage on any road or place of— (a) ambulances; or (b) fire-fighting vehicles	In case (a) the chief officer of the appropriate NHS trust  In case (b) the fire authority
6.	All cases	(a) The Freight Transport Association (b) The Road Haulage Association (c) Such other organisations (if any) representing persons likely to be affected by any provision in the order as the authority thinks appropriate

(2) The consultation referred to in paragraph (1) is additional to the consultation with the chief officer of police required by paragraph 20 of Schedule 9 to the Act and any other consultation required by the Act.

(3) This regulation has effect subject to regulations 19 and 21.

### Publication of proposals

5.—(1) After the consultations referred to in regulation 4 but before making the order the authority shall—

- (a) publish at least once in a local newspaper circulating in the area in which any road or other place to which the order relates is situated a notice of proposals containing the particulars specified in Part I of Schedule 1;
  - (b) take such other steps as they may consider appropriate for ensuring that adequate publicity about the order 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 order; or
    - (iii) the delivery of notices or letters to premises, or premises occupied by persons, appearing to the authority to be likely to be affected by any provision in the order;
  - (c) make available for inspection in accordance with Schedule 3 the documents mentioned in that Schedule.
- (2) This regulation has effect subject to regulations 19, 20 and 21.

### **Notice of proposals**

6. Not later than the date on which all the provisions in regulation 5 have been complied with, the authority shall send a copy of the notice of proposals to each person whom it is required to consult under regulation 4(1) or under any of the provisions referred to in regulation 4(2).

### **Objections**

7.—(1) Before the end of the objection period mentioned in paragraph (3), any person may object to the making of an order.

(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 a notice published under regulation 5.

- (3) The objection period shall be—
- (a) a period of not less than 21 days between the date on which a notice is published under regulation 5 and the date specified in that notice as the date by which any objection to the order must be made; or
  - (b) if later, a period of 21 days or such longer period as the authority may specify beginning with the date on which the authority has complied with all the provisions of regulation 5.
- (4) This regulation has effect subject to regulations 19, 20 and 21.

### **Hearing**

8.—(1) Before making any order to which these Regulations apply the authority may hold a hearing in connection with that order and the authority shall hold such a hearing before making an order in the following cases:—

- (a) where the order is—
  - (i) an order under section 1, 37 or 45 of the Act which contains a provision which prohibits, or has the effect of prohibiting, the loading or unloading of vehicles in any road either at all times or for any period of time unless such period falls wholly between 0700 hours and 1000 hours or between 1600 hours and 1900 hours in any day, or
  - (ii) an order under section 9 of the Act which contains a provision such as is mentioned in head (i) of this sub-paragraph and which is proposed to be made within 6 months

of the date on which a previous order under section 9 of the Act containing a similar provision as respects that road ceased to be in force,

and an objection to that provision in the order is made by any person in accordance with regulation 7 above and is not withdrawn;

(b) where the order is—

- (i) an order under section 1, 37 or 45 of the Act which contains a provision for requiring vehicular traffic generally, or vehicular traffic of any class, to proceed on a road in a specified direction, or for prohibiting such traffic from so proceeding, or
- (ii) an order under section 9 of the Act which contains a provision for requiring vehicular traffic generally, or vehicular traffic of any class, to proceed on a road in a specified direction, or for prohibiting such traffic from so proceeding, and which is proposed to be made within 6 months of the date on which a previous order under section 9 of the Act containing a similar provision as respects that road ceased to be in force, or
- (iii) an order under section 19 of the Act which provides that any road shall not be used either at all times or for a limited period or periods in the year by public service vehicles or such vehicles of a specified class,

and an objection to that provision in the order is made in accordance with regulation 7 by a person who provides a relevant service on any road to which the order relates, and is not withdrawn; and

(c) where the order is one which requires the consent of the Secretary of State under paragraph 13 of Schedule 9 to the Act, and he has notified the authority that he will not be willing to consider giving his consent to the making of the order until a hearing has been held by the authority in connection with it.

(2) Hearings shall be conducted by an independent person (referred to as “the reporter”) appointed by the authority from a list of persons compiled by the Secretary of State for that purpose.

(3) A hearing shall be held in public.

(4) For the purposes of paragraph (1)(b) “a relevant service” means—

- (a) a service which is a local service within the meaning of the Transport Act 1985(7); or
- (b) a service for the carriage of passengers for hire or reward at separate fares which is not—
  - (i) a local service (within the meaning aforesaid); or
  - (ii) a service in relation to which the conditions set out in Part III of Schedule 1 to the Public Passenger Vehicles Act 1981(8) are met in respect of each journey made by the vehicles used in providing the service.

### **Notice of hearing**

9.—(1) Where a hearing is to be held the authority shall forthwith give notice in writing to any person who has objected to the making of the order informing him that, if within such period, not being less than 14 days, as is specified in the notice, he intimates that he so desires, an opportunity will be afforded him of being heard in support of his objection.

(2) If any objector given such notice intimates his desire to be heard the authority shall notify him in writing of the arrangements for the hearing not less than 21 days before the date on which the hearing is to take place.

(3) Where a hearing is to take place the authority shall, in addition, not less than 21 days before the date on which the hearing is due to begin, publish at least once in a local newspaper circulating in

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(7) 1985 c. 67.

(8) 1981 c. 14.

the area in which any road or other place to which the order relates is situated a notice of the hearing containing the particulars specified in Part II of Schedule 1.

- (4) The date of the hearing shall not be earlier than 21 days, from the later of—
- (a) the day after the end of the objection period mentioned in regulation 7(3), or
  - (b) the date when the notice of the hearing is first published under paragraph (3).

### **Procedure at hearing**

**10.**—(1) Subject to paragraphs (2) to (4), the procedure at the hearing shall be determined by the reporter.

(2) Any person interested in the subject matter of the hearing may be heard in person or be represented by counsel, a solicitor or other representative.

(3) Any person so interested may, whether or not he proposes to appear at the hearing, send written representations for the consideration of the reporter at the hearing.

(4) 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 he 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.

### **Consent of the Secretary of State**

**11.** Where the order is one which under paragraph 13 of Schedule 9 to the Act requires the consent of the Secretary of State, the authority's application to him for such consent shall be accompanied by copies of such of the documents specified in Schedule 4 as may be applicable.

### **Consideration of objections and report**

**12.** Before making the order the authority shall consider all objections made in accordance with regulation 7 and not withdrawn or, where a hearing has taken place the report and recommendation made by the reporter.

### **Modifications**

- 13.**—(1) The authority shall not make the order with modifications where—
- (a) any of the modifications would involve a departure from the order in the form to which the Secretary of State or Crown authority has given his or its consent, or
  - (b) in a case where under paragraph 1 and 2 of Schedule 9 to the Act the Secretary of State has directed the authority to make the order, any of the modifications would involve a departure from the form in which he has directed the order to be made, or
  - (c) in a case where the consent of the Secretary of State is not required by or under paragraph 13 of Schedule 9 to the Act, any of the modifications would extend the application of the order or increase the stringency of any prohibition or restriction contained in it,

but subject as aforesaid the authority may make the order with modifications, whether in consequence of any objections or otherwise.

(2) Where the Secretary of State proposes to consent to the order with modifications which appear to him substantially to affect the character of the order as submitted to him, the authority shall, before making the order, take such steps as the Secretary of State may require for informing the persons likely to be concerned of the effect of the modifications, for giving to those persons an opportunity to make representations in connection therewith and for ensuring that any such representations are considered by the authority and (if he so requests) by the Secretary of State.

### **Special provisions for transmission of documents to Secretary of State in certain cases**

14. Where the order is one in connection with which a hearing has been held by virtue of regulation 8(1)(a) or (b) and the authority decide to make the order in a form which includes any provision at variance with the recommendations of the reporter, they shall—

- (a) before making the order, send to the Secretary of State a copy of the order as proposed to be made, a copy of the relevant map, a copy of the report and recommendations made following the hearing and a statement of the authority's reasons for not accepting the relevant recommendations;
- (b) at the same time as they send to the Secretary of State the documents specified above, give written notification of this fact to each person who objected to the order in accordance with regulation 7 and has not withdrawn his objection;
- (c) not make the order before the expiration of one month from the date on which the said documents were sent to the Secretary of State, unless he gives the authority earlier notification that he has no observations to make about the order.

## **PART III**

### **THE FORM OF THE ORDER**

#### **The relevant map**

15. The authority shall prepare and keep in connection with the order a map in accordance with the requirements set out in Schedule 5.

#### **Date of order**

16.—(1) The order shall specify—

- (a) the date on which it is made;
- (b) the date on which it comes into force or, in a case where different operative dates are provided for different provisions of the order, each of the dates on which a provision of the order comes into force.

(2) No date on which an order, or a provision of an order, comes into force shall be earlier than the date on which the notice of the making of the order is published in the local newspaper under regulation 17.

(3) No order shall be made after the expiry of two years beginning with the date on which a notice of proposals is first published under regulation 5.

## **PART IV**

### **NOTICE OF MAKING THE ORDER AND SUBSEQUENT PROCEDURE**

#### **Notice of making the order**

17.—(1) When the authority have made the order they shall—

- (a) forthwith give notice in writing of the making of the order to the chief constable of the police area in which any road or other place to which the order relates is situated;

- (b) notify in writing each person, who has objected to the order in accordance with regulation 7 and has not withdrawn his objection, of the authority's reasons for making the order in spite of the objection;
  - (c) within 14 days of the making of the order publish once in a local newspaper circulating in the area in which any road or other place to which the order relates is situated a notice of the making of the order containing the particulars specified in Part III of Schedule 1;
  - (d) if considered necessary within the same period publish a similar notice in the Edinburgh Gazette;
  - (e) comply with the relevant requirements of Schedule 3 as to the availability of documents for inspection;
  - (f) where the order relates to any road, forthwith take such steps as are necessary to secure—
    - (i) the erection on or near the road of such traffic signs in such positions as the authority may consider requisite for the purpose of securing that adequate information as to the effect of the order is given to persons using the road;
    - (ii) the maintenance of such signs for so long as the order remains in force; and
    - (iii) in a case where the order contains provisions for revoking, or altering the application of, a previous order, such removal or replacement of existing traffic signs as the authority may consider requisite for the purpose of avoiding confusion to users of the road or the continuance of traffic signs in incorrect positions;
  - (g) where the road is a Crown road, consult with the appropriate Crown authority before carrying out any of the requirements at sub-paragraph (f) of this paragraph.
- (2) This regulation has effect subject to regulation 19.

## PART V

### SPECIAL PROCEDURAL PROVISIONS FOR CERTAIN ORDERS

#### **Making an order in part**

**18.**—(1) Subject to the provisions of this regulation, where the authority have complied with regulations 4 (consultation), 5 and 6 (publication of proposals) and 12 (consideration of objections and report), they may make the order in part by making an order giving effect to some of the proposals to which the order relates whilst deferring a decision on the remainder.

(2) Where an order has been made in part in accordance with paragraph (1), the authority may subsequently deal with the remaining proposals to which the order relates in any, or any combination, of the following ways—

- (a) abandon them;
- (b) defer a decision on them;
- (c) make an order or orders giving effect to them in whole or in part.

(3) Where, pursuant to paragraph (2), an authority has deferred a decision on any proposals, it may subsequently deal with those proposals in any way permitted by that paragraph.

(4) Where an order is made or proposed to be made in part by virtue of paragraph (1), (2) or (3) of this regulation, Parts II, III and IV of these Regulations shall apply to it as if the procedural steps previously taken under these Regulations, and any notices published in connection with the order as originally proposed had related only to the provisions of the order as made or proposed to be made in part.

(5) The notice of making published, or any notification under regulation 17(1)(c) given, on the making of an order by virtue of this regulation shall—

- (a) indicate briefly the proposals (if any) to be given effect in the order as originally proposed which have been abandoned or in relation to which the decision of the order making authority has been deferred; and
- (b) where the order is made by virtue of paragraph (3), give particulars of the title and date of every previous order made by virtue of this regulation in relation to the same order as originally proposed.

(6) In the application of regulation 13 to an order made by virtue of paragraph (1), (2) or (3) of this regulation, such an order shall be regarded for the purposes of regulation 13(2) as an order made with modifications.

### **Special provisions for consolidation orders, certain variation and other orders**

**19.**—(1) Regulations 4, 5, 6 and 7 shall not apply to a consolidation order or any of the orders set out in Schedule 6, and regulation 17 where appropriate shall have effect in relation to any such order with the following modifications, namely, that the particulars to be contained in the notice of the making of the order shall consist only of—

- (a) the name of the authority;
- (b) the title of the order;
- (c) if appropriate, a statement of the titles of the orders the provisions of which are reproduced in the consolidation order;
- (d) the operative date or dates of the order; and
- (e) the items numbered 5 and (if appropriate) 6 in Part III of Schedule 1.

(2) Any order to which this regulation applies shall be framed so as to come into force on a date not less than 14 days after the publication in the local newspaper of the notice of the making of the order.

### **Special provisions for certain experimental traffic orders**

**20.**—(1) This regulation applies to the following orders:—

- (a) an order under section 9(1) of the Act which provides only for one or more of the following matters:—
  - (i) the revocation of an order made, or having effect as if made, under the said section 9(1);
  - (ii) the variation of an order made, or having effect as if made, under the said section 9(1) so as to reduce the extent of its application or the stringency of any prohibition or restriction imposed by it;
- (b) an order under section 9(4) of the Act.

(2) Regulations 5, 6 and 7 shall not apply to any order to which this regulation applies.

### **Saving**

**21.** Where in connection with any order, consultation in accordance with regulation 4 is commenced before the date of coming into force of these Regulations, then the remaining procedural steps in connection with that order shall be determined by the Local Roads Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1987, notwithstanding their revocation by regulation 1(2).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## Revocation

**22.** The Local Roads Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1987<sup>(9)</sup> are hereby revoked.

St Andrew's House,  
Edinburgh  
1st March 1999

*Calum MacDonald*  
Parliamentary Under Secretary of State, Scottish  
Office

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<sup>(9)</sup> S.I. 1987/2245.