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**STATUTORY INSTRUMENTS**

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**1986 No. 252 (S. 16)****ROADS AND BRIDGES, SCOTLAND****The Stopping Up of Roads and Private Accesses and the  
Redetermination of Public Rights of Passage (Procedure)  
(Scotland) Regulations 1986**

<i>Made</i> - - - - -	<i>7th February 1986</i>
<i>Laid before Parliament</i>	<i>26th February 1986</i>
<i>Coming into Operation</i>	<i>21st March 1986</i>

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**SCHEDULES**

In exercise of the powers conferred on me by section 71(1), by that section as applied by section 152(3), and by section 143(1) of the Roads (Scotland) Act 1984(a), and of all other powers enabling me in that behalf, I hereby make the following regulations:—

*Citation and commencement*

1. These regulations may be cited as the Stopping Up of Roads and Private Accesses and the Redetermination of Public Rights of Passage (Procedure) (Scotland) Regulations 1986 and shall come into operation on 21st March 1986.

*Interpretation*

2.— (1) In these regulations—

“the Act” means the Roads (Scotland) Act 1984;

“district planning authority” has the same meaning as in section 172(4) of the Local Government (Scotland) Act 1973(b).

(2) A regulation or schedule referred to in these regulations only by number means the regulation or schedule so numbered in these regulations.

*Orders under section 68*

3. An order made by a roads authority under section 68 of the Act (which provides for the stopping up of a road) shall,

- (a) if it provides for stopping up a road under subsection (1)(a) as having become dangerous to the public or under subsection (1)(b) as being unnecessary at the time of making the order, be in the Form 1 set out in Schedule 1 or in a form substantially to the like effect;
- (b) if it provides for the stopping up of a road under subsection (1)(b) because it will become unnecessary, be in the Form 2 set out in Schedule 1 or in a form substantially to the like effect; and
- (c) be accompanied by a plan which conforms with the requirements of regulation 6 and which in addition shows—
  - (i) in zebra hatching, as illustrated in Schedule 2, the length of road to be stopped up;
  - (ii) any means of passage along the road to be reserved to pedestrians, pedal cyclists or both outlined and marked on the plan using the terms “footpath” or “cycle track” as appropriate; and
  - (iii) in a case where the roads authority is making the order on the ground that the road will become unnecessary, any suitable alternative road to be available, marked “alternative road”.

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(a) 1984 c. 54.

(b) 1973 c. 65.

*Orders under section 69*

4. An order made by a roads authority under section 69 of the Act (stopping up of dangerous access from a road or a proposed road to land), shall be—

- (a) in the Form 3 set out in Schedule 1 or in a form substantially to the like effect; and
- (b) accompanied by a plan which conforms with the requirements of regulation 6 and which in addition shows—
  - (i) in solid black, as illustrated in Schedule 2, the private means of access to be stopped up;
  - (ii) by thin diagonal hatching, as illustrated in Schedule 2 any new means of access to be provided;
  - (iii) any remaining public right of way on foot which is not to be obstructed outlined and marked “footpath”; and
  - (iv) the proposed method of stopping up the access.

*Orders under section 152(2)*

5. An order made by a roads authority under section 152(2) of the Act (which provides for redetermining the means of exercise of a public right of passage over a road) shall be—

- (a) in the Form 4 set out in Schedule 1 or in a form substantially to the like effect; and
- (b) accompanied by a plan which conforms with the requirements of regulation 6 and which in addition shows—
  - (i) by sawtooth hatching, as illustrated in Schedule 2, the road over which the means of exercise of the public right of passage is to be redetermined;
  - (ii) marked with the terms “carriageway”, “cycle track”, “footpath” or “footway” as appropriate according to the new means of exercise of the public right of passage.

*Plan requirements*

6. A plan accompanying an order under section 68, 69 or 152(2) of the Act shall be—

- (a) to a scale of not less than 1/2500, showing on it the title of the order to which it relates, the names of adjoining roads and the location and name of any nearby focal point or landmark; and
- (b) authenticated on behalf of the roads authority in the same manner as the order, specifying the date and place of making.

*Publication of proposal*

7. A roads authority proposing to make an order under section 68, 69 or 152(2) of the Act shall publish in at least one newspaper circulating in the area in which the road or private means of access to which the order relates is situated and in the Edinburgh Gazette, a notice in the Form 5 set out in Schedule 1 or in a form substantially to the like effect.

*Service of proposal*

8. The roads authority proposing to make an order shall, not later than the date on which the notice under regulation 7 is first published in a newspaper, serve a copy of the proposed order and the accompanying plan together with a copy of the notice required by regulation 7 and a statement of the reasons for making the order—

- (a) where the roads authority are not the local roads authority, on the local roads authority;
- (b) on the district planning authority, and on any other roads authority affected by the proposal;
- (c) where the order relates to a private means of access, on the owner and occupier of any land to which the order relates and on the owner and occupier of any land which it is proposed to acquire for the provision of a new means of access; and
- (d) where the order relates to the redetermination of the means of exercise of a public right of passage over a road or to the stopping up of a road, on any statutory undertakers having apparatus under, in, on, over, along or across that road.

*Display of proposal*

9. Not later than the date on which the notice is first published in a newspaper under regulation 7, the roads authority shall cause a copy of the notice to be displayed in a prominent position at or near the ends of so much of the road as it is proposed to stop up or over which it is proposed to redetermine the means of exercise of the public right of passage, and shall take all reasonable steps to keep the notice exhibited in such a position and in a legible condition for a period of not less than 28 days.

*Inspection of documents*

10.— (1) Where a notice given or served under these regulations refers to a document in relation to an order or a proposed order, that document or a copy of it shall be made available for inspection at the main office of the roads authority and at such other place or places within their area as the roads authority think fit having regard to convenience to the public and to the particular part of their area to which the order relates.

(2) Any document made available for inspection under paragraph (1) above shall, unless the order or proposed order is refused confirmation or is abandoned, be available for inspection free of charge during normal office hours for a period of not less than 28 days.

*Making objection*

11. Any objection to a proposed order shall be made to the roads authority within the period and to the address specified in the appropriate notice given or served under these regulations.

*Reply to objection*

12. On receipt of any such objection the roads authority shall send to the objector an explanation of the purpose of and the need for the proposed order together with any comments on the terms of the objection which they may wish to make.

*Remit to Secretary of State*

13. Where the roads authority are a local roads authority, and an objection is made and not subsequently withdrawn, the matter shall be remitted by the authority to the Secretary of State for his determination and when so doing the authority shall—

- (a) forward to the Secretary of State a copy of—
  - (i) the proposed order and accompanying plan,
  - (ii) the statement of reasons for making the order,
  - (iii) each objection which has not been withdrawn and copies of all correspondence relating to such objection; and,
- (b) advise each such objector in writing that the case has been so remitted for determination.

*Provision of further information*

14. The Secretary of State may require a local roads authority to furnish him with any further information which appears to him to be relevant in order to determine the matter.

*Making or confirmation of order (no objection)*

15. In any case where no objection is made or where an objection is made but subsequently withdrawn, the Secretary of State if he is the roads authority may make the order, and the local roads authority if they are the roads authority may confirm the order.

*Making or confirmation of order (objection maintained)*

16. In any case where an objection is made and is not withdrawn,
- (a) the Secretary of State, if he is the roads authority, shall consider such objection and thereafter may make the order; or
  - (b) if the local roads authority are the roads authority, and the matter has been remitted to the Secretary of State for determination in accordance with regulation 13, the Secretary of State shall determine the matter and may confirm the order with or without modification or refuse to confirm it; thereafter the Secretary of State shall notify his determination in writing to the local roads authority and to each person who did not withdraw his objection.

*Notice of making or confirmation of order*

17. Immediately after an order has been made or confirmed, the roads

authority responsible for it shall publish in the manner prescribed by regulation 7, a notice in the Form 6 or 7 as appropriate set out in Schedule 1 or in a form substantially to the like effect and the provisions of regulations 8 and 9 relating to the service and display of a notice shall apply to any such notice as they apply to the notice required in terms of regulation 7.

*Notice of refusal to confirm order*

**18.** In any case where the Secretary of State has refused to confirm an order the local roads authority shall, immediately after receiving notification, publish in the manner prescribed by regulation 7 a notice in the Form 8 set out in Schedule 1 or in a form substantially to the like effect and the provisions of regulations 8 and 9 relating to the service and display of a notice shall apply to any such notice as they apply to the notice required in terms of regulation 7.

*Date of operation of orders*

**19.—** (1) Subject to paragraphs (2) and (3) below, an order to which these regulations apply shall become operative on the date on which the notice required in terms of regulation 17 is first published or on such later date as may be specified in the order.

(2) An order under section 68 of the Act to stop up a road which is made on the ground that the road will become unnecessary, shall not come into operation until the road has become unnecessary and a suitable alternative road exists.

(3) A private means of access shall not be stopped up before the expiry of 6 weeks from the date of the first public notification of the proposal to make an order in terms of regulation 7 and in any case where a new means of access is to be provided by the roads authority, before it has been so provided.

*Revocation, transitional and savings*

**20.** —(1) The Stopping Up of Roads and Private Accesses (Procedure) (Scotland) Regulations 1976(a) are hereby revoked.

(2) Insofar as these regulations contain a corresponding provision anything done under the regulations hereby revoked shall be deemed to have been done under the corresponding provision of these regulations.

*Malcolm Rifkind,*  
One of Her Majesty's Principal  
Secretaries of State.

New St Andrew's House,  
Edinburgh.  
7th February 1986.

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(a) S.I. 1976/63.

## SCHEDULE 1 Regulations 3, 4, 5, 7, 17, 18

## FORM 1

## Regulation 3(a)

*Form of order stopping up a road which has become dangerous to the public or is unnecessary*

## ROADS (SCOTLAND) ACT 1984

The †[*name of local roads authority*] [*name of road*] (Stopping Up) Order 19■■■

The [*name of roads authority*], in exercise of the powers conferred on them by section 68(1) of the Roads (Scotland) Act 1984 and of all other powers enabling them in that behalf, and having considered that the road specified in the Schedule to this order has become \*[unnecessary] [dangerous to the public other than by reason of its crossing or entering the route of another road which is a public road or of its being affected by the construction or improvement of such other road] and being satisfied that \*[a suitable alternative road exists] [no alternative road is necessary], hereby make the following order:—

1. This order may be cited as [*title of order*] and shall come into operation on ■■■ 19■■■.
2. The stopping up of the road in the [*specify area in which road is situated*] specified in the Schedule to this order is hereby ordered, \*[subject to reservation of a means of passage for [pedestrians] [pedal cyclists] [pedestrians and pedal cyclists] specified in that Schedule].
3. Where there is, immediately before the date on which the said road is stopped up under this order, any apparatus belonging to any statutory undertakers under, in, on, over, along or across that road for the purpose of carrying on their undertaking, the said statutory undertakers shall after the commencement of this order continue to have all rights in respect of the said apparatus as they had immediately before that date.

*[Authenticate in the manner appropriate to the authority making the order, specifying the date and place]*

†Insert name of local roads authority only if that authority is promoting the order.

\*Delete all parts not applicable.

## SCHEDULE

## ROAD TO BE STOPPED UP

*(Description of road sufficient for identification with reference to the plan accompanying the order, specifying accurately the terminal points and measurement of the length to be stopped up by reference to some permanent feature such as an existing road junction together with a description of any means of passage reserved for pedestrians, pedal cyclists or both, also related to the plan).*

Regulation 3(b)

FORM 2

*Form of order stopping up a road which will become unnecessary*

## ROADS (SCOTLAND) ACT 1984

The †[*name of local roads authority*] [*name of road*] (Stopping Up) Order 19■

The [*name of roads authority*], in exercise of the powers conferred on the them by section 68(1) of the Roads (Scotland) Act 1984 and of all other powers enabling them in that behalf, and having considered that the road specified in Part I of the Schedule to this order will become unnecessary and that a suitable alternative road will exist, hereby make the following order:—

1. This order may be cited as [*title of order*] and shall come into operation ‡[when the road has become unnecessary] [when the alternative road specified in Part II of the Schedule to this order is completed and open to traffic].
2. The stopping up of the road in the [*specify area in which road is situated*], specified in Part I of the Schedule to this order is hereby ordered, \*[subject to reservation of a means of passage for [pedestrians] [pedal cyclists] [pedestrians and pedal cyclists] specified in that part of the Schedule].
3. Where there is, immediately before the date on which the said road is stopped up under this order, any apparatus belonging to any statutory undertakers under, in, on, over, along or across that length of road for the purpose of carrying on their undertaking the said statutory undertakers shall after commencement of this order continue to have all rights in respect of the said apparatus as they had immediately before that date.

*[Authenticate in the manner appropriate to the authority making the order, specifying the date and place]*

†Insert name of local roads authority only if that authority is promoting the order.

‡Delete that part which will occur first.

\*Delete all parts not applicable.

## SCHEDULE

## PART I

## ROAD TO BE STOPPED UP

*(Description of road sufficient for identification with reference to the plan accompanying the order, specifying accurately the terminal points and measurement of the length to be stopped up by reference to some permanent feature such as an existing road junction together with a description of any means of passage reserved for pedestrians, pedal cyclists or both, also related to the plan).*

## PART II

## ALTERNATIVE ROAD

*(Description of road sufficient for identification with reference to the plan accompanying the order, specifying accurately the terminal points and measurement of the length—again by reference to some permanent feature—to replace the road to be stopped up).*



## FORM 3

## Regulation 4

*Form of order stopping up a private access*

## ROADS (SCOTLAND) ACT 1984

The †[*name of local roads authority*] [*name of road*] (Stopping Up of Access) Order 19■■■

The [*name of roads authority*], in exercise of the powers conferred on them by section 69(1) of the Roads (Scotland) Act 1984, and of all other powers enabling them in that behalf, and having considered that the private means of access from the [*name of road*] specified in the Schedule to this order is likely to \*[cause danger to] [interfere unreasonably with] traffic on the road and being satisfied that \*[no access is reasonably required] [another reasonably convenient means of access is available] [another reasonably convenient means of access will be provided], hereby make the following order:—

1. This order may be cited as [*title of order*] and shall come into operation on ■■■■ 19■■■.
2. The stopping up of the private access to [*name of road*] in the [*specify area in which road is situated*] specified in the Schedule to this order is hereby ordered.
- \*[3. The [*name of roads authority*] shall provide the new means of access specified in the Schedule.]

*[Authenticate in the manner appropriate to the authority making the order, specifying the place and date]*

†Insert name of local roads authority only if that authority is promoting the order.

\*Delete all parts not applicable.

## SCHEDULE

## PRIVATE ACCESS TO BE STOPPED UP

*(Description of private access to be stopped up together with a description of any public right of way on foot and any new access proposed by the roads authority, all sufficient for identification with reference to the plan accompanying the order.)*

## Regulation 5

## FORM 4

*Form of order for redetermining the means of exercise of the public right of passage over a road*

## ROADS (SCOTLAND) ACT 1984

The ‡[*name of local roads authority*] [*name of road*] (Redetermination of Means of Exercise of Public Right of Passage) Order 19■■■

The [*name of roads authority*], in exercise of the powers conferred on them by sections \*[1(1)] [2(1)] and 152(2) of the Roads (Scotland) Act 1984, and of all other powers enabling them in that behalf, hereby make the following order:—

1. This order may be cited as [*title of order*] and shall come into operation on ■■■ 19■■■.
2. The road in the [*specify area in which road is situated*] specified in the Schedule to this order, at present a †[*type of road*], shall become a †[*type of road*] the right of passage being exercisable \*[by all classes of traffic] [on pedal cycle only] [on pedal cycle and foot only] [on foot only].

*[Authenticate in the manner appropriate to the authority making the order, specifying the place and date]*

‡Insert name of local roads authority only if that authority is promoting the order.

\*Delete all parts not applicable.

†Insert type of road with reference to public right of passage, using where appropriate terms defined in section 151(2) of the Act.

## SCHEDULE

ROAD OVER WHICH MEANS OF EXERCISE OF PUBLIC RIGHT OF  
PASSAGE IS TO BE REDETERMINED

*(Description of road sufficient for identification with reference to the plan accompanying the order, specifying accurately the terminal points and measurement of the length, by reference to some permanent feature, over which the means of exercise of the public right of passage is to be redetermined).*

## FORM 5

## Regulation 7

*Form of notice by a roads authority of a proposal to make an order stopping up a road or a private means of access or an order redetermining the means of exercise of the public right of passage over a road.*

## ROADS (SCOTLAND) ACT 1984

NOTICE IS HEREBY GIVEN THAT the [name of roads authority] propose to make an order under section \*[68(1)] [69(1)] [152(2)] of the Roads (Scotland) Act 1984 \*[stopping up the road] [stopping up the private means of access] [redetermining the means of exercise of the public right of passage over the road] described in the Schedule hereto.

The title of the order is [insert title].

A copy of the proposed order and of the accompanying plan showing the \*[road to be stopped up] [private access to be stopped up] [road over which the means of exercise of the public right of passage is to be redetermined], together with a statement of the reasons for making the order have been deposited at the office of †[name and address of roads authority]. Those documents are available for inspection free of charge from [specify days and hours during which documents are available for inspection].

ANY PERSON may, within 28 days from [date of first publication of the notice], object to the making of the order by notice in writing to [name and address of roads authority]. Objections should state the name and address of the objector, the matters to which they relate and the grounds on which they are made.

Date

19■■.

[Insert name and designation of proper officer of the authority]

\*Delete all parts not applicable.

†Insert name of roads authority and address of main office; and, where appropriate, addresses of other places where documents are available for inspection.

## SCHEDULE

*(Insert description of the road or the private means of access to which the order relates as is sufficient for identification, specifying the terminal points of any length of road which it is proposed to stop up or over which it is proposed to redetermine the means of exercise of the public right of passage. In the latter case, specify the redetermination it is proposed to make regarding the means of exercise of the public right of passage over the road.)*

Regulation 17

FORM 6

*Form of notice of confirmation by the Secretary of State of an order stopping up a road or a private means of access or of an order redetermining the means of exercise of the public right of passage over a road*

## ROADS (SCOTLAND) ACT 1984

The *[title of order]*

NOTICE IS HEREBY GIVEN THAT, on *[date of confirmation of order]* the Secretary of State, in exercise of the powers conferred on him by section 71(2) of the Roads (Scotland) Act 1984 *\*[confirmed] [confirmed with modifications]* the above-mentioned order.

Copies of the order as confirmed and of the accompanying plan have been deposited at *‡[name and address of roads authority]* and may be inspected there free of charge from *[specify days and hours during which documents are available for inspection]*.

The effect of the order is stated in Notice *[number]* in the Edinburgh Gazette Number *[number]* and in the *[name of newspaper]* dated *[date]*.

The order as confirmed comes into operation on *[date]*.

Dated

19■■.

*[Insert name and designation of proper officer of the authority]*

\*Delete part not applicable.

‡Insert name of roads authority and address of main office; and, where appropriate, addresses of other places where documents are available for inspection.

## FORM 7

## Regulation 17

*Form of notice of the making or confirming by a roads authority of an order stopping up a road or private means of access or of an order redetermining the means of exercise of the public right of passage over a road*

## ROADS (SCOTLAND) ACT 1984

The *[title of order]*

NOTICE IS HEREBY GIVEN THAT, on *[date]* the *[name of roads authority]* in exercise of the powers conferred on them by section 71(2) of the Roads (Scotland) Act 1984 *\*[made] [made and confirmed] [confirmed]* the above-mentioned order.

Copies of the order as *\*[made] [made and confirmed] [confirmed]* and of the accompanying plan have been deposited at *†[name and address of roads authority]* and may be inspected there free of charge from *[specify days and hours during which documents are available for inspection]*.

The effect of the order is stated in Notice *[number]* in the Edinburgh Gazette Number *[number]* dated *[date]* and in the *[name of newspaper]* dated *[date]*.

The order comes into operation on *[date]*.

Dated

19■■.

*[Insert name and designation of proper officer of the authority]*

*\*Delete all parts not applicable.*

*†Insert name of roads authority and address of main office; and, where appropriate, addresses of other places where documents are available for inspection.*

Regulation 18

FORM 8

*Form of notice of Secretary of State's refusal to confirm an order stopping up a road or private means of access or an order redetermining the means of exercise of the public right of passage over a road*

## ROADS (SCOTLAND) ACT 1984

The *[title of order]*

NOTICE IS HEREBY GIVEN THAT on *[date]* the Secretary of State, in exercise of the powers conferred on him by section 71(2) of the Roads (Scotland) Act 1984, refused to confirm the above-mentioned order details of which were stated in Notice *[number]* in the Edinburgh Gazette Number *[number]* dated *[date]* and in the *[name of newspaper]* dated *[date]*.

Dated

19■■.

*[Insert name and designation of proper officer of the authority]*

**SCHEDULE 2**Regulations 3(c)(i),  
4(b)(i) & (ii), 5(b)(i)*Plan markings to be used*

These markings are illustrative only. It is not intended that they need be used at the size or scale shown.

Road to be stopped up (zebra hatching).



Private means of access to be stopped up (solid black).



New means of access (thin diagonal hatching).



Road over which the public right of passage is to be redetermined (sawtooth hatching).



## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These regulations revoke and re-enact the Stopping Up of Roads and Private Accesses (Procedure) (Scotland) Regulations 1976 with minor and drafting amendments.

The regulations prescribe the procedure to be followed in connection with the making of orders by roads authorities under sections 68, 69 and 152(2) of the Roads (Scotland) Act 1984. The principal change made by the regulations is the introduction for the first time of a procedure for redetermining the means of exercise of a public right of passage over a road (regulation 5 and Form 4) under the new powers contained in the 1984 Act.

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