
STATUTORY INSTRUMENTS

1999 No. 614

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

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 on, a road for which another authority is the local traffic authority	The other 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	In case (a) the chief officer of the appropriate NHS trust

Status: This is the original version (as it was originally made).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>
	(b) (b) fire-fighting vehicles	In case (b) the fire authority
6.	All cases	(a) (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(1); 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(2) 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 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.

(1) 1985 c. 67.

(2) 1981 c. 14.

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.