

## **POLICY NOTE**

### **THE MOTOR SPORT ON PUBLIC ROADS (SCOTLAND) REGULATIONS 2019**

#### **SSI 2019/XXX**

The above instrument was made in exercise of powers conferred by sections 12G and 12H of the Road Traffic Act 1988, and section 75(10) and (11) of the Deregulation Act 2015. This instrument is subject to affirmative procedure before the Scottish Parliament.

#### **Purpose of the instrument.**

These Regulations set out the procedure for authorising races and trials of speed between motor vehicles on public roads in Scotland. They allow a roads authority (which for trunk roads is the Scottish Ministers and for other roads is the relevant local authority) to make orders known as motor sport orders authorising the holding of a race or trial of speed between motor vehicles on public roads in Scotland.

#### **Background and Policy Objectives**

It is generally a criminal offence to promote or take part in a race or trial of speed on public roads in Scotland. The only exceptions to this currently in Scotland are events authorised under the Scottish Borders Council (Jim Clark Memorial Rally) Order Confirmation Act 1996 and the Strathclyde Regional Council Order Confirmation Act 1990. These private acts made at Westminster authorise and allow, respectively, the events known as the Jim Clark Rally and the Isle of Mull Rally, and disapply road traffic enactments during the events for vehicles on the rally routes. Other motor vehicle competitions such as navigational rallies and treasure hunts, which are conducted within applicable road traffic laws, are permitted on public roads, subject to an authorisation procedure. Racing is permitted off the public road subject to a similar authorisation process.

Local authorities currently have the power to authorise a road closure for certain sporting and leisure events on public roads under the Road Traffic Regulation Act 1984 (RTRA). However, this does not currently extend to the closure of public roads for motor vehicle races or trials of speed.

The Jim Clark and Mull rallies have not been held on closed public roads in recent years due to ongoing issues faced by the event organisers with insurance cover following two tragic incidents in 2013 and 2014 which resulted in four fatalities. These consisted of one fatality at the non-closed road Snowman Rally held on forestry land near Inverness and three fatalities at the Jim Clark Rally which was being held on closed public roads.

Following those tragic incidents, the Scottish Ministers announced in June 2014 that a Motorsport Event Safety Review Group would examine safety, and specifically spectator safety, at motorsport events in Scotland and make recommendations to improve safety for future events. The review recognised that there is an inherent risk in taking part in or attending motorsport events and it sought to recommend reasonable and proportionate measures that would manage and minimise the risks to spectators.

In December 2016 the Crown Office and Procurator Fiscal Services (COPFS) announced that a single Fatal Accident Inquiry (FAI) would take place into the fatalities at both the Snowman and Jim Clark Rallies. The FAI determination was published in November 2017. Both the findings of the review and the FAI have been taken on board by the Motorsport UK, the national membership organisation and governing body for four-wheel motorsport in the United Kingdom, resulting in much stricter guidance and awareness related to spectator safety.

In light of these developments, the Scottish Ministers consider it appropriate to use the powers in section 12G to 12I of the Road Traffic Act 1988 (which were added to that act by the Deregulation Act 2015) to make provision to allow the holding of races or trials of speed between motor vehicles on public roads in Scotland. This SSI makes that provision, introducing a two stage authorisation process that gives key roles to motor sport governing bodies and local authorities in allowing motor sport events to be held on closed public roads in Scotland.

### **Role of Motor Sport Governing Bodies**

Motorsport UK and the Scottish Auto Cycle Union already have considerable experience of authorising motor sport events, including taking into account the interests of residents and communities when planning events. They issue skill-related competition licences for various types and classes of motor sport events and there are ranges of safety requirements that competitors must comply with in order to take part in various events.

This SSI places these motor sport governing bodies at the heart of the authorisation process, thereby ensuring that the organisations with the experience of authorising and running such events can use that experience to oversee the events. Organisers of events, before applying to a local authority for a motor sport order, will be required to approach the relevant motor sport governing body and seek that body's permission to do so. The motor sport governing bodies will act as a gatekeeper before promoters can even apply to a local authority, and must be satisfied as to matters such as the sufficiency of the applicant's resources, the suitability of the route, and the appropriateness of the public safety arrangements. As is existing practice in England and Wales, these bodies will also be required to licence the participating drivers and vehicles. They will be required by the Regulations to undertake consultations with event organisers, roads authorities, local authorities and Police Scotland before a permit to apply for a motor sport order is issued.

The motor sport governing bodies also have an ongoing responsibility to ensure that their guidelines and safety requirements are adhered to. The Motorsports UK Stage Rally Safety Requirements Document is an example of the type of safety requirements which are placed on event organisers before a permit is issued. The motor sport governing bodies' involvement does not stop on the issuing of a permit. In the above example, for instance, MSA officials such as an MSA Safety Delegate and an MSA Steward take on key posts in stage rallies and are present at the event. They have the power to cancel entire events or part of the event on safety grounds if they have concerns at any point.

### **Role of Local Authorities**

Having received an application accompanied by a permit from the relevant motor sport governing body, the local authority will determine whether or not to make a motor sport order

by considering the likely impact of the event on the local community, the potential local economic and other benefits. The local authority will also need to be satisfied that the views of the local community have been taken into account and that adequate public safety and traffic management arrangements have been made. It is envisaged that this will in practice be done in consultation with the local authority's Safety Advisory Group (SAG) and Police Scotland.

The SSI amends s.16A of the RTRA so that a temporary traffic regulation order prohibiting or restricting traffic on a road in connection with certain events can be made in connection with a race or trial of speed between motor vehicles. It will be for the local authority to make any temporary traffic regulation orders that are necessary for the event applied for to take place.

As well as closing the roads on which an event is to be run, it will generally be necessary to suspend speed limits and certain other road traffic regulations if organised races or trials of speed are to take place on public roads. Other than the provision made in the Scottish Borders Council (Jim Clark Memorial Rally) Order Confirmation Act 1996 and the Strathclyde Regional Council Order Confirmation Act 1990, which only relate to specific events, there is no existing general mechanism to do this. This SSI therefore operates, via the issuing of a motorsports order, to suspend a prescribed list of road traffic regulations such as speed limits for those participating in or officiating at an authorised event.

### **Consultation**

All statutory requirements regarding the consultation for this Scottish Statutory Instruments have been carried out. A public consultation was held between the 3<sup>rd</sup> December 2018 and the 28<sup>th</sup> January 2019 and we received a total of 3,788 responses.

Nine questions were asked in total and a clear majority of respondents (98% in favour) supported the introduction of a two stage application process to allow motorsports events to be held on closed public roads. Respondents also clearly supported (99% in favour) the proposals for Local Road Authorities to be given powers to close public roads for motorsports events in line with the current powers they already have for other types of events.

### **Impact Assessments**

A Business and Regulatory Impact Assessment (BRIA), Pre Screening Report for Environmental Impact Assessment (SEIA), Pre Screening Report Island Communities Impact Assessment and partial Fairer Scotland Duty Impact Assessment have been completed.

### **Roads Policy Team**

Transport Scotland

27 February 2018