
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2022 No.

The Pavement Parking Prohibition (Exemption Orders Procedure) (Scotland) Regulations 2022

PART 1

Preliminary

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Pavement Parking Prohibition (Exemption Orders Procedure) (Scotland) Regulations 2022 and come into force on 9 December 2022.

(2) In these Regulations—

“the Act” means the Transport (Scotland) Act 2019,

“writing” and “written” include electronic communications within the meaning of section 15 (general interpretation) of the Electronic Communications Act 2000⁽¹⁾.

PART 2

Consultation, publication and representations

Publication of proposals and consultation

2.—(1) Before making an exemption order under section 51 of the Act, a local authority must—

- (a) publish on the local authority’s website a notice containing the information specified in Part 1 of schedule 1 (a “notice of proposals”),
- (b) publish on the local authority’s website an outline of the proposed exemption order, including the information required under regulation 11(a) and (b) (a “proposal”),
- (c) publish on the local authority’s website a statement setting out the reasons why the proposed exemption order should be made,
- (d) make a copy of the information mentioned in sub-paragraphs (a) to (c) available for inspection at their offices during normal office hours, and (if the local authority thinks fit) at such other places within its area and during such times at those places as it may determine,
- (e) display notices containing the information set out in Part 1 of schedule 1, displayed in accordance with paragraphs 1 and 2 of schedule 2, in any footway to which the proposal relates,
- (f) consult the persons specified in paragraph (3),

⁽¹⁾ 2000 c. 7. Section 15 was relevantly amended by paragraph 158 of schedule 17 of the Communications Act 2003 (c. 17).

- (g) take such other steps as it considers appropriate for ensuring that adequate publicity about the proposed exemption order is given to persons likely to be affected by it.
- (2) When consulting the persons specified in paragraph (3) a local authority must provide those persons with the information mentioned in paragraph (1)(a) to (c).
- (3) The persons to be consulted are—
- (a) the chief constable of the Police Service of Scotland,
 - (b) any Transport Partnership, established by order under section 1 of the Transport (Scotland) Act 2005(2), to whose region the proposal relates,
 - (c) the appropriate Crown Authority where the proposal relates to a Crown Road,
 - (d) any Health Board, constituted by order under section 2 of the National Health Service (Scotland) Act 1978(3), to whose area the proposal relates,
 - (e) the Scottish Fire and Rescue Service, where it appears to the local authority that the proposal is likely to affect the passage of fire fighting vehicles on any road or place,
 - (f) the traffic authority, where the proposal relates to a road for which the local authority is not the traffic authority,
 - (g) such other persons as the local authority considers appropriate.
- (4) In this regulation, “Crown road” and “appropriate Crown Authority” have the meanings given in section 131(7) of the Road Traffic Regulation Act 1984(4).

Representations

- 3.—(1) Before the end of the period specified in accordance with paragraph 5 of Part 1 of schedule 1, any person may make representations in writing in relation to the proposed exemption order.
- (2) Representations under paragraph (1) must—
- (a) contain a statement of the grounds on which the representations are made, and
 - (b) be intimated to the local authority as set out in the notice published under regulation 2(1) (a) and paragraph 5 of Part 1 of schedule 1.
- (3) A local authority may consider whether it is appropriate to take account of representations made under this regulation which are received by it after the end of the period specified in the notice of proposals.

PART 3

Hearings

Hearing

- 4.—(1) Before making an exemption order, a local authority may appoint a person (a “reporter”) to conduct a hearing in relation to the proposed exemption order or any aspect of it.
- (2) A reporter appointed under this regulation must be—

(2) 2005 asp 12.

(3) 1978 c. 29; section 2 was relevantly amended by paragraph 1 of schedule 7 of the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 28(a)(i) and (ii), (b) and (c) of the National Health Service and Community Care Act 1990 (c. 19), paragraph 1(2)(a) and (b) of schedule 1 of the National Health Service Reform (Scotland) Act 2004 (asp 7), and paragraph 2(2) of schedule 2 of the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13).

(4) 1984 c. 27. Section 131(7) was amended by paragraph 75(3) of schedule 8 of the New Roads and Street Works Act 1991 (c. 22) and by S.I. 2017/524.

- (a) a member of the staff of the Scottish Ministers, or
 - (b) selected from a panel provided by the Scottish Ministers.
- (3) A hearing must be held in public.

Notice of hearing

- 5.—(1) Where a hearing is to be held the reporter must give notice in writing to that effect to—
- (a) each person consulted under regulation 2(3),
 - (b) each person who made representations under regulation 3(1),
 - (c) any other person from whom the reporter wishes to hear in relation to specified matters at the hearing.
- (2) Within 14 days of the date of receiving a notice under paragraph (1) anyone intending to appear at the hearing must inform the reporter of that intention in writing.
- (3) A notice sent under paragraph (1) must include confirmation that if those persons do not reply to the reporter in terms of paragraph (2) they will not be entitled to appear at the hearing.

Appearances at hearing

6. The persons entitled to appear at a hearing are those who have informed the reporter of their intention to appear under regulation 5(2).

Date and notification of hearing

- 7.—(1) The reporter must fix the date and time for the holding of the hearing and the manner in which the hearing will be conducted, including its location (if appropriate), all or any of which may subsequently be varied by the reporter.
- (2) The reporter must give those persons entitled to appear at the hearing written notice of—
- (a) the date and time fixed for the holding of the hearing,
 - (b) the manner of the holding of the hearing, including its location, if appropriate,
 - (c) any subsequent variation of the details mentioned in sub-paragraphs (a) and (b).

Procedure at hearing

- 8.—(1) Except as otherwise provided in this Part, the procedure at a hearing is as the reporter determines.
- (2) The reporter is, having considered any submission by the persons entitled to appear at the hearing, to state at the commencement of the hearing the procedure the reporter proposes to adopt.
- (3) Any person entitled to appear at the hearing may do so on their own behalf or be represented by another person.
- (4) Where there are two or more persons having a similar interest in the issues being considered at the hearing, the reporter may allow one or more person to appear on behalf of some or all of those persons.
- (5) A hearing is to take the form of a discussion led by the reporter and cross-examination is not permitted.
- (6) The reporter may from time to time adjourn the hearing and, if the date, time and place of the adjourned hearing are announced before the adjournment, no further notice is required, otherwise regulation 7 applies as it applies to the variation of the date, time or place at which a hearing session is to be held.

PART 4

Making of an exemption order

Consideration of representations and report following hearing

9. Before making an exemption order, a local authority must consider—
- (a) any representations made in accordance with regulation 3(1),
 - (b) in a case where a hearing has been held, the report and recommendations (if any) of the reporter.

Making of an exemption order

- 10.—(1) A local authority may—
- (a) make an exemption order which gives effect to a proposal without modification,
 - (b) make an exemption order which gives effect to a proposal with modifications,
 - (c) decide not to make an exemption order.
- (2) Where a local authority proposes to make an exemption order giving effect, with modifications, to the proposal, being modifications which in its opinion make a substantial change to the proposal, they are—
- (a) to notify any person who appears to the local authority to be likely to be affected by the change,
 - (b) to give that person an opportunity to make representations about the modifications within such period as may be specified in the notification, and
 - (c) before making the order, to consider any representations made to the local authority by that person.
- (3) A local authority may consider whether it is appropriate to take account of representations made under this regulation which are received by it after the end of the period specified in accordance with paragraph (2)(b).

Form of exemption order

11. An exemption order must—
- (a) specify the footway (or part of a footway) to which it relates,
 - (b) be accompanied by a map which indicates the footway (or part of a footway) to which the order relates,
 - (c) specify the date on which the order comes into effect.

Notice of making of an exemption order

12. Within 14 days of making an exemption order under section 51 of the Act a local authority must—
- (a) give notice in writing of the making of the exemption order to the chief constable of the Police Service of Scotland,
 - (b) give notice in writing to each person consulted under regulation 2(3), and to each person who made representations under regulation 3(1), of the local authority's reasons for making the exemption order,

- (c) publish on the local authority's website a notice of the making of the exemption order containing the information specified in Part 2 of schedule 1,
- (d) publish the exemption order and accompanying map and, where applicable, the report following the holding of a hearing under regulation 4, on the local authority's website,
- (e) make a copy of everything mentioned in sub-paragraphs (a) to (d) available for inspection at their offices during normal office hours, and (if the local authority thinks fit) at such other places within its area and during such times at those places as it may determine,
- (f) display notices containing the information set out in Part 2 of schedule 1, displayed in accordance with paragraphs 1 and 3 of schedule 2, in any footway to which the exemption order relates,
- (g) take such other steps as it considers appropriate for ensuring that adequate publicity about the making of the exemption order is given to persons likely to be affected by it.

Amending and revoking exemption orders

13. The requirements of regulations 2 to 12 apply to proposals to amend or revoke an exemption order as they do to proposals to make an exemption order.

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers