

2001 No. 139

CIVIL DEFENCE

The Civil Defence (Scotland) Regulations 2001

Made

29th March 2001

Coming into force

1st April 2001

The Scottish Ministers, in exercise of the powers conferred by sections 2, 3(1) and (2) and 8(1) of the Civil Defence Act 1948(a) and all other powers enabling them in that behalf, hereby make the following Regulations a draft of which has, in accordance with section 8(3) of that Act, been laid before, and approved by resolution of, the Scottish Parliament:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Civil Defence (Scotland) Regulations 2001 and shall come into force on 1st April 2001.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations—

“the Act” means the Civil Defence Act 1948;

“the 1967 Act” means the Police (Scotland) Act 1967(b);

“civil defence” means such forms of civil defence as may from time to time be recognised by the Scottish Ministers under section 5 of the Act as appropriate to be undertaken by police forces and their members;

“civil defence functions” means functions conferred on police authorities by regulation 3 below;

“government department” includes the Scottish Administration;

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

(a) 1948 c.5; section 2 was amended by the Local Government (Scotland) Act 1973 (c.65), Schedule 29, the Civil Protection in Peacetime Act 1986 (c.22), section 2(3) and by the Statute Law (Repeals) Act 1993 (c.50), section 1(1) and Schedule 1, Part X; section 3 was amended by the Police Act 1964 (c.48), Schedule 10, Part I and by S.I. 1989/1968, regulation 2 and Schedule 1. Sections 2 and 3 require to be read with section 4A (as inserted by the Local Government etc. (Scotland) Act 1994 (c.39), section 180(1) and Schedule 13, paragraph 29(2)). The Secretary of State is, by virtue of section 9(2) of the Civil Defence Act 1948 (“the 1948 Act”), the designated Minister for the purposes of making regulations under sections 2 and 3 of that Act. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46) (“the 1998 Act”). The requirement to obtain the consent of the Treasury by virtue of section 3(1) of the 1948 Act ceased to have effect by virtue of section 55 of the 1998 Act.

(b) 1967 c.77.

(c) 1994 c.39.

“police authority” means—

- (i) a police authority for a local government area whose area is not included in a combined area by virtue of an amalgamation scheme made under section 19, 20 or 21B of the 1967 Act^(a); or
- (ii) a joint police board within the meaning of the 1967 Act.

“regular constable” has the meaning assigned to it by section 3(2) of the 1967 Act^(b);

“special constable” has the meaning assigned to it by section 3(2) of the 1967 Act; and

“year” means a financial year.

Civil Defence functions

3.—(1) Subject to paragraph (2) below, it shall be the function of every police authority to train and to equip for civil defence the police force maintained by them and the special constables appointed for the area for which the police force is maintained.

(2) In pursuance of the functions conferred by paragraph (1) above, a shelter shall be provided only to such extent as is necessary for enabling the control of such police forces and special constables to be carried on in war conditions.

(3) In carrying out the functions conferred on them by this regulation, a police authority shall comply with any direction given from time to time by the Scottish Ministers.

Grants payable to police authorities

4.—(1) For the purposes of these Regulations, expenses towards which grant is payable by virtue of these Regulations are expenses falling within the description of expenses set out in Schedule 1.

(2) Subject to paragraphs (4) and (5) below, there shall be payable by the Scottish Ministers towards the expenses incurred by each police authority in or in connection with the discharge of their civil defence functions, grants to that authority in accordance with the following provisions of these Regulations.

(3) Grants payable towards expenses by virtue of these Regulations shall amount to complete reimbursement of the expenses.

(4) No grants shall be payable towards expenses incurred for any purpose by a police authority which would have been incurred for that purpose if no civil defence functions had been conferred on that authority.

(5) Grants shall not be payable towards the following expenses, namely:—

- (a) any expenses which are incurred without the prior approval of the Scottish Ministers unless they are expenses either of a class in respect of which, or incurred in circumstances in which, the Scottish Ministers dispense with the requirement of prior approval; and
- (b) the excess of any item of expenses over the amount which the Scottish Ministers determine to be reasonable for that item.

Deductions in respect of receipts and of articles no longer required

5.—(1) The Scottish Ministers may deduct from the grants which would otherwise be payable under these Regulations the whole, or such part as they determine to be reasonable, of any sum being a receipt of the police authority in connection with or arising out of the discharge of a civil defence function of the police authority or of any sum which they determine ought to have been so received.

(2) Without prejudice to the generality of paragraph (1) above, and subject to paragraph (3) below, the Scottish Ministers may deduct from the grants which would otherwise be payable to a police authority under these Regulations such sum as they determine to be reasonable where they determine that—

(a) Section 19 was amended by the Local Government etc. (Scotland) Act 1994 (c.39) (“the 1994 Act”), Schedule 13; section 20 was substituted by the 1994 Act, section 35; and section 21B was inserted by the 1994 Act, section 34.

(b) Section 3 was substituted by the Police and Magistrates’ Courts Act 1994 (c.29), section 47(1).

- (a) any article which has been acquired by the police authority with the aid of grant for the purposes of their civil defence functions; or
- (b) any article which the police authority has been provided free on loan by any government department,

is no longer required in connection with a civil defence function of the police authority and is not required in connection with any other civil defence function of the authority.

(3) No deduction shall be made under paragraph (2) above in relation to any article provided free on loan if the article has been surrendered to the Scottish Ministers or to such person as they may direct.

(4) In determining the amount, if any, to be deducted under this regulation, the Scottish Ministers shall have regard to all relevant circumstances.

Deductions in respect of avoidable expenses or loss of equipment

6.—(1) The Scottish Ministers may deduct from the grants which would otherwise be payable to any police authority under these Regulations such sum as they determine to be reasonable in the circumstances where they determine that suitable action by the authority would have avoided—

- (a) in whole or in part expenses incurred by or on behalf of the Scottish Ministers or by the police authority in connection with the maintenance, repair or replacement of any article as is described in paragraph (2) below; or
- (b) the loss of any article so described.

(2) The articles referred to in paragraph (1) above are—

- (a) articles which have been acquired by the police authority with the aid of grant for the purposes of their civil defence functions; and
- (b) articles with which the authority has been provided free on loan by any government department which are articles required in connection with a civil defence function of the police authority.

Withholding of grant

7. The Scottish Ministers may withhold in whole or in part, permanently or for such time as they may determine, grants which would otherwise be payable to a police authority under these Regulations, if they determine that any of the following conditions are not fulfilled, namely:—

- (a) that the civil defence functions of the police authority are and have been efficiently performed;
- (b) that the police authority have complied with any directions issued by the Scottish Ministers with which they are bound to comply under paragraph (a) of section 2(2) of the Act;
- (c) that the police authority maintains and has maintained an efficient system of store records in respect of articles required in connection with the civil defence functions of the police authority being articles which it has been provided with free on loan by any government department or which it has acquired with the aid of grant for the purposes of their civil defence functions;
- (d) that the Scottish Ministers have received from the police authority such information, estimates, books, records and other documents relating to the authority's discharge of their civil defence functions as they have required.

Estimates and determination of grant

8.—(1) Subject to paragraph (2) below, the Scottish Ministers shall make an estimate of the grant payable to each police authority for each year.

(2) The inclusion of any item of expenditure for the purpose of calculating the estimated grant shall not have effect as approval of the Scottish Ministers of that item for the purposes of regulation 4.

(3) The Scottish Ministers may make to any police authority during the year in question a payment on account of their grant for that year not exceeding ninety per centum of the estimate of such grant made in accordance with paragraph (1) above.

(4) The amount of any grant payable to any police authority for the year in question shall be finally determined in accordance with the provisions of these Regulations by the Scottish Ministers after examination of such audited financial statements and such books, records, documents and accounts relating thereto as they may require.

(5) Subject to regulations 5, 6 and 7, any balance found after such final determination to be due by or to the Scottish Ministers in account with any police authority shall be paid to or recovered from the police authority in such manner as the Scottish Ministers think fit.

Revocation, transitional and saving provision

9—(1) Subject to paragraph (2) below, the Regulations mentioned in Schedule 2 are hereby revoked.

(2) The Civil Defence (Grant) (Scotland) Regulations 1953(a) and the Civil Defence (Police) (Scotland) Regulations 1954(b) shall continue to apply as they had effect immediately before the coming into force of these Regulations in relation to grant payable by the Scottish Ministers for the year ending 31st March 2001.

JAMES WALLACE
A member of the Scottish Executive

St. Andrew's House,
Edinburgh
29th March 2001

(a) S.I. 1953/1864.
(b) S.I. 1954/327.

SCHEDULE 1

EXPENSES ELIGIBLE FOR GRANT

1. Expenses, which the Scottish Ministers determine are not of an administrative nature, in or in connection with the purchase, hiring, installation, maintenance or use of communications equipment provided for use in connection with the control and co-ordination of action to be taken in the event of hostile attack or a threat of hostile attack.

2. Expenses in and in connection with—

- (a) the employment for civil defence purposes of any member of the staff of a police authority who is employed primarily for such purposes; and
- (b) the use, for the purpose of discharging the civil defence functions of a police authority, of the services of any member of a police force.

3. Expenses relating to training for civil defence purposes—

- (a) of providing such training for regular constables and special constables; and
- (b) of taking part in training exercises organised by or on behalf of the Scottish Ministers, other than expenses consisting of payments of salary or other remuneration to regular constables.

4. Expenses consisting of payments made in respect of the travelling, accommodation and subsistence expenses incurred by regular constables and special constables in attending training courses or other forms of training in civil defence provided by or on behalf of the Scottish Ministers.

5. Expenses consisting of payments made for the reimbursement of reasonable expenditure incurred by persons serving as volunteers in taking part in any form of training in civil defence organised by a local authority, or by or on behalf of the Scottish Ministers, to the extent that such expenditure would not have been incurred by those persons if they had not been taking part in that training.

6. Expenses, not included in the preceding paragraphs of this Schedule, which the Scottish Ministers determine are capital expenses and not of an administrative nature, in connection with the provision of any article other than an article—

- (a) which is intended to form part of any permanent or semi-permanent works including, but without prejudice to the generality of the foregoing, any article which when in use is analogous to a landlord's fixture; or
- (b) which is to be used for equipping an office.

SCHEDULE 2
REVOCATIONS

<i>Regulations revoked</i>	<i>References</i>
The Civil Defence (Fire Services) (Scotland) Regulations 1949	S.I. No. 1949/2167
The Civil Defence (Grant) (Scotland) Regulations 1953	S.I. No. 1953/1804
The Civil Defence (Police) (Scotland) Regulations 1954	S.I. No. 1954/327
The Civil Defence (Fire Services) (Scotland) Amendment Regulations 1968	S.I. No. 1968/548
The Civil Defence (Grant) (Scotland) Amendment Regulations 1983	S.I. No. 1983/1651
The Civil Defence (Grant) (Scotland) Amendment Regulations 1987	S.I. No. 1987/677
The Civil Defence (General Local Authority Functions) (Scotland) Regulations 1993	S.I. No. 1993/739

EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations consolidate with amendments the Civil Defence (Grant) (Scotland) Regulations 1953 (S.I. 1953/1804) (“the 1953 Regulations”). The Regulations make provision for grants to be payable to police authorities by the Scottish Ministers towards expenses incurred by them in connection with the discharge of their civil defence functions. Those functions are set out in regulation 3 of the Regulations. The functions were set out in the Civil Defence (Police) (Scotland) Regulations 1954 (S.I. 1954/327) (“the 1954 Regulations”), but the Regulations revoke the 1954 Regulations (regulation 9 and Schedule 2).

The 1953 Regulations made provision for grants to be payable to fire authorities and local authorities towards expenses incurred by them in connection with the discharge of their civil defence functions. Those functions are the functions conferred by the Civil Defence (Fire Services) (Scotland) Regulations 1949 (S.I. 1949/2167) (“the 1949 Regulations”) and the Civil Defence (General Local Authority Functions) (Scotland) Regulations 1993 (S.I. 1993/1774) (“the 1993 Regulations”). Fire authorities and local authorities no longer exercise such functions and accordingly regulation 9 of, and Schedule 2 to, these Regulations revoke the 1949 Regulations and the 1993 Regulations.

The 1953 Regulations and relevant amending instruments and the 1954 Regulations are similarly revoked although they continue to apply in relation to grants payable by the Scottish Ministers for the financial year ending 31st March 2001 (regulation 9).

The Regulations also amend the provision dealing with the estimate and determination of grant so as to reflect the position that civil defence grant is no longer demand led but instead is estimated by the Scottish Ministers at the outset (regulation 8).

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