
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 26

TRANSPORT

The Low Emission Zones (Scotland) Regulations 2021

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| <i>Made</i> | - - - - | <i>18th January 2021</i> |
| <i>Laid before the Scottish Parliament</i> | - - - - | <i>20th January 2021</i> |
| <i>Coming into force</i> | - - | <i>31st May 2021</i> |

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 11(e), 12(6) and (7), 13, 21(1), and 28(1) of the Transport (Scotland) Act 2019⁽¹⁾, and all other powers enabling them to do so.

PART 1

Preliminary

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Low Emission Zones (Scotland) Regulations 2021 and come into force on 31 May 2021.

(2) In these Regulations—

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

“initiating party” means whichever of the parties referred to in section 12(2) of the Act that appoints a reporter in terms of section 12(2),

“local authority” includes local authorities jointly operating a scheme,

“opt-in notice” has the meaning given in regulation 11(2)(a),

“party” means—

(a) the local authority proposing to make the scheme,

(b) the Scottish Ministers, and

(c) any person who submitted an opt-in notice under regulation 11,

“scheme” means a low emission zone scheme,

“writing” and “written” include electronic communications within the meaning of section 15 (general interpretation) of the Electronic Communications Act 2000(2).

PART 2

Consultation, publication and representations relating to low emission zone proposals

Consultation

2.—(1) The persons specified for the purpose of section 11(e) of the Act are—

- (a) a local authority whose area is contiguous to that of the local authority proposing to make the scheme,
- (b) a Regional Transport Partnership, established by order under section 1 of the Transport (Scotland) Act 2005(3), in whose region the scheme is operating or will operate,
- (c) a Health Board, constituted by order under section 2 of the National Health Service (Scotland) Act 1978(4), in whose area the scheme is operating or will operate.

(2) When consulting under section 11 of the Act the local authority proposing to make a scheme must provide the consultees with the information specified in paragraph (4).

(3) Any person consulted under section 11 of the Act may make such written representations to the local authority as they consider appropriate on the proposal to make a scheme.

(4) The local authority must provide each consultee with—

- (a) a copy of the proposal to make a scheme which includes the content required under section 14 of the Act,
- (b) a copy of a statement by the local authority setting out the reasons why the proposed scheme should be made,
- (c) notice of—
 - (i) the time period for representations to be made under paragraph (3),
 - (ii) where representations are to be sent,
- (d) any other information on the proposal which the local authority considers necessary or appropriate.

(5) The local authority must publish the statement referred to in section 10(2) of the Act when sending that statement to the Scottish Ministers.

Publication of proposals

3. After completing the consultation referred to in regulation 2, but before submitting the proposal to make the scheme to the Scottish Ministers for approval under section 10 of the Act, the local authority must—

- (a) publish at least once in a local newspaper circulating in an area in which there is situated a road to which the proposed scheme relates, a notice of proposals containing the information specified in Part 1 of schedule 1,

(2) 2000 c.7. Section 15 was relevantly amended by paragraph 158 of schedule 17 of the Communications Act 2003 (c.21).

(3) 2005 asp 12.

(4) 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).

- (b) publish a copy of the information referred to in regulation 2(4) and a copy of the statement referred to in section 10(2) of the Act on the local authority's website,
- (c) send a copy of the statement referred to in section 10(2) of the Act to the persons consulted under section 11 of the Act,
- (d) take such other steps as it considers appropriate for ensuring that adequate publicity about the proposal to make the scheme is given to persons likely to be affected by it and, without limit to that generality, such other steps may include the display of notices containing the information set out in paragraphs 1 to 5, and displayed in accordance with paragraphs 6 and 7, of schedule 2 in any road to which the proposed scheme relates,
- (e) comply with the requirements of paragraph 1(a) to (c) of schedule 3.

Objections

4.—(1) Before the end of the objection period specified in accordance with paragraph (3) any person may object in writing to the making of the proposed scheme.

(2) Any objections under paragraph (1) must—

- (a) contain a statement of the grounds of the objection, and
- (b) be intimated to the local authority as set out in the notice published under regulation 3(a) and paragraph 5 of Part 1 of schedule 1.

(3) A local authority must specify a period of at least 28 days, beginning with the date on which the notice is published under regulation 3(a), for objections to be made under paragraph (1).

(4) At the end of the objection period specified in accordance with paragraph (3) the local authority must prepare and publish a report detailing—

- (a) the number of objections received,
- (b) a summary of the general nature of the objections received,
- (c) the local authority's response to the objections received.

(5) A report prepared under paragraph (4) must be sent to the Scottish Ministers when submitting the proposal to make the scheme for approval under section 10 of the Act.

Notice of making of a low emission zone scheme

5. When a local authority makes a scheme under section 9 of the Act the local authority must—

- (a) as soon as reasonably practicable—
 - (i) give notice in writing of the making of the scheme to the chief constable of the Police Service of Scotland,
 - (ii) give notice in writing to each person consulted under section 11 of the Act, and to each person who made objections under regulation 4, of the local authority's reasons for making the scheme,
 - (iii) comply with the requirements of paragraph 1(d) (if applicable) and (e) of schedule 3,
- (b) within 14 days of the making of the scheme—
 - (i) publish at least once in a local newspaper circulating in an area in which there is situated a road to which the scheme relates, a notice of the making of the scheme containing the information specified in Part 2 of schedule 1,
 - (ii) publish the scheme on the local authority's website.

PART 3

Examinations

Examination of proposals

6.—(1) Where an initiating party intends to appoint a reporter to carry out an examination under section 12(2) of the Act in relation to a proposal to make a scheme, that party must give notice in writing of its intention to—

- (a) the Scottish Ministers, if the initiating party is the local authority proposing to make the scheme,
- (b) the local authority, if the initiating party is the Scottish Ministers,
- (c) any person consulted under section 11 of the Act,
- (d) each person who objected to the proposal to make the scheme under regulation 4.

(2) The notice referred to in paragraph (1) must be accompanied by—

- (a) a statement setting out full details of the matters the initiating party considers require to be taken into account by the reporter in examining the proposal to make the scheme,
- (b) a statement as to which of the procedures specified in section 12(3) of the Act⁽⁵⁾ the initiating party considers is appropriate in the circumstances,
- (c) all documents, materials and evidence upon which the initiating party intends to rely in the examination,
- (d) copies of the statement referred to in section 10(2) of the Act, and the report referred to in regulation 4(4), if these are available,
- (e) where the statement referred to in sub-paragraph (b) indicates that—
 - (i) a hearing under section 12(3)(b) of the Act is sought, a list of any persons whom the initiating party wishes to provide a written statement for the purposes of the hearing, or
 - (ii) an inquiry under section 12(3)(c) of the Act is sought, a list of any persons whom the initiating party wishes to give evidence at the inquiry, any matters which those persons are particularly to address,

and any relevant qualifications those persons have to do so.

(3) All matters which the initiating party intends to raise in the examination must be set out in the statement referred to in paragraph (2)(a), or in the documents which accompany that statement.

(4) If the statement and report referred to in paragraph (2)(d) have already been sent to the Scottish Ministers, paragraph (2)(d) does not require them to be re-sent to the Scottish Ministers.

Appointment of reporter

7.—(1) A reporter appointed under section 12(2) of the Act must be—

- (a) a member of the staff of the Scottish Ministers, or
- (b) selected from a panel provided by the Scottish Ministers.

(2) When appointing a reporter to carry out the examination under section 12(2) of the Act the initiating party must send to the reporter—

- (a) copies of notices sent in accordance with regulation 6(1),

(5) 2019 asp 17.

- (b) a copy of the proposal to make the scheme which includes the content specified in section 14 of the Act,
- (c) copies of everything referred to in regulation 6(2).

Responses to notice of intention to cause an examination to be held

8.—(1) The persons referred to in regulation 6(1) may respond in writing to the initiating party's notice within the scope of the examination as set in accordance with regulation 9.

(2) Responses must include—

- (a) representations setting out full details of the matters which the respondent considers require to be taken into account by the reporter in examining the proposal,
- (b) a statement as to which of the procedures specified in section 12(3) of the Act the respondent considers is appropriate in the circumstances,
- (c) where the respondent intends to rely on documents, materials and evidence in addition to the items referred to in regulation 6(2)(c) and (d), copies of the documents, materials and evidence,
- (d) where the respondent intends to rely only on the documents, materials, evidence, and the statement and report already provided by the initiating party under regulation 6(2)(c) and (d), a list of those items upon which the person intends to rely,
- (e) where the statement referred to in sub-paragraph (b) indicates that—
 - (i) a hearing under section 12(3)(b) of the Act is sought, a list of any persons whom the respondent wishes to provide a written statement for the purposes of the hearing, or
 - (ii) an inquiry under section 12(3)(c) of the Act is sought, a list of any persons whom the respondent wishes to give evidence at the inquiry, any matters which those persons are particularly to address,

and any relevant qualifications those persons have to do so.

(3) All matters which the respondent intends to raise in the examination must be set out in the representations referred to in paragraph (2)(a), or in the documents which accompany those representations.

Scope of examinations

9.—(1) The scope of the examination is to include only—

- (a) the matters identified in the statement referred to in regulation 6(2)(a),
- (b) any further matter which both the local authority proposing to make the scheme and the Scottish Ministers agree should be within the scope of the examination.

(2) In the event of a difference of opinion between the local authority and the Scottish Ministers as to the scope of the examination, the Scottish Ministers must determine the scope.

(3) Matters outwith the scope of the examination that are raised in any response referred to in regulation 8 must be disregarded by the reporter.

Procedure and timetable for examinations

10.—(1) On appointment the reporter must in writing invite the local authority proposing to make the scheme and the Scottish Ministers to identify and agree any further matters as referred to in regulation 9(1)(b) for the purpose of setting the scope of the examination.

(2) The invitation referred to in paragraph (1) must confirm the period within which responses are to be sent to the reporter for the purpose of that paragraph.

(3) The reporter must establish the procedure and timetable for the examination and give written notice to the persons specified in regulation 6(1) of—

- (a) the scope of the examination as set in accordance with regulation 9,
- (b) the fact that responses must—
 - (i) be within the scope of the examination,
 - (ii) contain the content required under regulation 8,
 - (iii) be sent to the reporter and to all other persons specified in regulation 6(1) within the period specified in the notice,
- (c) how responses may be sent,
- (d) the fact that persons given notice under this paragraph may send comments on any matters raised in the responses to the reporter and to all other persons given notice under this paragraph,
- (e) the period within which any such comments are to be sent.

Opt-in procedure

11.—(1) The reporter may invite, by notice in writing given in accordance with this regulation, persons specified in regulation 6(1) to confirm if they wish to participate in any further procedure.

- (2) The notice given under paragraph (1) is to—
 - (a) state that if the person wishes to participate in any further procedure conducted in relation to the examination they must send a notice (“an opt-in notice”) to the reporter to that effect,
 - (b) include information as to how the opt-in notice may be given and specify the date (being not less than 14 days after the date on which the notice under paragraph (1) is given) on or before which the opt-in notice must be given to the reporter, and
 - (c) inform the person that if they do not give an opt-in notice to the reporter before that date they may lose the opportunity to participate in any further procedure.

Further submissions and information

12.—(1) Before holding an examination the reporter may determine that further written submissions should be made, or further information should be provided, within the scope of the examination.

(2) Where paragraph (1) applies, the reporter may request such further submissions or information and is to do so by giving written notice to that effect to the parties (“a procedure notice”).

- (3) A procedure notice is to—
 - (a) set out the matters on which additional representations or information is requested,
 - (b) specify the date by which such further representations or information are to be sent to the reporter,
 - (c) confirm the means by which any party to whom the procedure notice was given may be contacted.

(4) A party who receives a procedure notice must, by the date specified in that notice in accordance with paragraph (3)(b)—

- (a) provide the additional representations or information requested to the reporter,
 - (b) provide a copy of that response to the parties.

(5) Within 14 days of receipt of a copy of response under paragraph (4)(b) any party—

- (a) may send comments in writing to the reporter in reply to that response, and

- (b) must, when doing so, send a copy of such comments to the other parties.

Determination without further procedure

13. Where the reporter has received the information specified in regulations 6(2), 8(2), and (as the case may be) 10(3)(d) and 12(3) and (4), and considers that no further representations are, or information is, required to enable the examination to be carried out, the reporter may carry out the examination and prepare a report on it without further procedure in accordance with section 12(3) (a) of the Act.

Pre-examination meetings

14.—(1) The reporter may hold a meeting (“a pre-examination meeting”) to consider the manner in which the examination is to be conducted with a view to securing the efficient and expeditious conduct of the examination.

(2) The reporter must give to the parties such written notice of the holding of a pre-examination meeting and of the date, time and manner in which it is to be held, including its location if appropriate, (and any subsequent variation thereof) as may appear to the reporter to be reasonable in the circumstances.

(3) The reporter is to determine the matters to be discussed and the procedure to be followed at the pre-examination meeting.

Conclusion on further procedure

15. Where the reporter does not carry out the examination in accordance with regulation 13 the reporter must (following any pre-examination meeting conducted in accordance with regulation 14) —

- (a) determine whether to carry out the examination by means of a hearing in accordance with section 12(3)(b) of the Act or by means of an inquiry in accordance with section 12(3) (c) of the Act,
- (b) inform the parties in writing of that determination.

Inspections

16.—(1) The reporter may at any time make—

- (a) an unaccompanied inspection of the zone to which the proposal to make, amend or revoke a scheme relates, or
- (b) an inspection of the zone along with any party notified under paragraph (3).

(2) Where the reporter intends to make an unaccompanied inspection, the reporter must inform the parties of such intention.

(3) Where the reporter intends to make an accompanied inspection, the reporter must give notice of the date and time of the proposed inspection to the parties.

(4) The reporter is not required to defer an inspection if any of the parties referred to in paragraph (3) to whom notice was given is not present at the time of the inspection.

Hearings and inquiries procedure

17.—(1) Schedule 4 specifies the procedure for the conduct of a hearing into an examination under section 12 of the Act.

(2) Schedule 5 specifies the procedure for the conduct of an inquiry into an examination under section 12 of the Act.

Expenses

18.—(1) The reporter may make orders as to the expenses incurred by the parties to the examination.

(2) Orders under paragraph (1) in favour of the Scottish Ministers may include expenses in relation to the administration of the examination, in particular such reasonable sum as the reporter determines in respect of the Scottish Ministers' general staff expenses and overheads.

Report

19. The reporter must—

- (a) provide the parties with a copy of the report prepared under section 12(2) of the Act,
- (b) arrange for publication of the report on the Scottish Ministers' website.

PART 4

Approved devices

Approved devices

20. A device is approved for use in connection with the operation of a scheme if—

- (a) it meets the requirements specified in schedule 6, and
- (b) it is of a type which has been certified by the Scottish Ministers as one which meets those requirements.

PART 5

General

Accounts

21.—(1) A local authority operating a scheme must for the duration of the scheme—

- (a) keep proper accounts, as required by proper accounting practices, for that scheme showing the costs of (as the case may be) proposing, making and operating the scheme and how the gross and net revenue of the scheme is calculated,
- (b) prepare, in respect of each financial year, a statement of account based on the accounts referred to in paragraph (1)(a) and, if applicable, paragraph (2) in such form as is required by proper accounting practices,
- (c) publish the statement of account, in such manner as is required by proper accounting practices, in the annual accounts of the authority for the financial year,
- (d) include a copy of the statement of account in the annual report required in terms of section 29 of the Act(6).

(6) 2019 asp 17.

(2) Where a scheme is operated by two or more local authorities jointly those local authorities must, in addition to the requirement specified in paragraph (1)(a), keep proper accounts as required by proper accounting practices—

- (a) showing each authority's costs of (as the case may be) proposing, making and operating the scheme, and
- (b) how the gross and net revenue of the authority's share of the scheme is calculated in accordance with the apportionment of any monies received from penalty charges as provided for in section 14(2) of the Act.

(3) In this regulation—

“costs” includes all of the costs incurred for, or in connection with, planning, procuring, implementing, maintaining, repairing, improving, administering, managing, enforcing and promoting the scheme,

“net revenue” means the amount (if any) by which the gross amount received under a low emission zone scheme for a financial year exceeds the costs of (as the case may be) proposing, making and operating the scheme for the financial year,

“proper accounting practices” means those accounting practices which fall within one or more of—

- (a) those which the local authority operating the scheme is required to observe by virtue of any enactment,
- (b) those which have been specified in guidance issued for the purposes of that enactment by the Scottish Ministers,
- (c) those which, whether by reference to any generally recognised, published code or otherwise, are regarded as proper accounting practices to be observed in the keeping, preparation and publication of accounts of a local authority,

but in the event of a conflict in any respect between the practices within sub-paragraph (a) and those within sub-paragraphs (b) or (c), only those within sub-paragraph (a) are to be regarded as proper accounting practices in that respect, and in the event of a conflict in any respect between those within sub-paragraph (b) and sub-paragraph (c), only those within sub-paragraph (b) are, in that respect, to be so regarded.

Amending and revoking low emission zone schemes

22. The requirements of regulations 2 to 19 and schedules 1 to 5 apply to proposals to amend or revoke a scheme as they do to proposals to make a scheme.

St Andrew's House,
Edinburgh
18th January 2021

MICHAEL MATHESON
A member of the Scottish Government

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SCHEDULE 1

Regulations 3(a), 4(2) and 5(b)

INFORMATION TO BE INCLUDED IN PRESS NOTICES

PART 1

PARTICULARS TO BE INCLUDED IN THE NOTICE OF PROPOSALS

1. The name of the local authority.
2. A description of the proposed scheme and its general nature and effect.
3. Each address at which a copy of—
 - (a) the information referred to in regulation 2(4),
 - (b) the statement referred to in section 10(2) of the Act,can be inspected, and the times when inspection can take place at each such address.
4. The fact that the information referred to in regulation 3(b) is available on the local authority's website.
5. The date of the end of the objection period referred to in regulation 4(3), the address at which objections to the scheme can be lodged, and a statement that all objections must be made in writing and must specify the grounds of objection.

PART 2

INFORMATION TO BE INCLUDED IN THE NOTICE OF MAKING THE LOW EMISSION ZONE SCHEME

6. The name of the local authority.
7. A description of the scheme as approved by the Scottish Ministers.
8. The date of the making of the scheme, the date on which it was approved by the Scottish Ministers and the date on which it comes into effect.
9. Each address at which a copy of the scheme, as approved, can be inspected, and the times when inspection can take place at each such address.
10. The fact that a copy of the scheme as approved is available on the local authority's website.

SCHEDULE 2

Regulation 3(d)

REQUIREMENTS AS TO NOTICES TO BE DISPLAYED IN A ROAD TO WHICH THE LOW EMISSION ZONE SCHEME RELATES

PART 1

INFORMATION TO BE INCLUDED IN THE NOTICE

1. The name of the local authority.

2. A description of the proposed scheme and its general nature and effect.
3. Each address at which the information referred to in regulation 2(4) can be inspected, and the times when inspection can take place at each such address.
4. The fact that the information referred to in regulation 3(b) is available on the local authority's website.
5. The date of the end of the objection period mentioned in regulation 4(3), the address at which objections to the scheme can be lodged, and a statement that all objections must be made in writing and must specify the grounds of objection.

PART 2

OTHER REQUIREMENTS AS TO THE DISPLAY OF THE NOTICE

6. The notice must be displayed in a prominent position at or near each end of the road and in such other positions as the local authority think necessary for securing that adequate information about the subject matter of the notice is given to persons using the road.
7. The notice must be first displayed at the same time as the corresponding notice is first published in the local newspaper in accordance with regulation 3(a), and the local authority must take all reasonable steps to ensure that it remains in a legible condition and continues to be displayed until the end of the objection period.

SCHEDULE 3

Regulations 3(e) and 5(a)(iii)

REQUIREMENTS AS TO THE AVAILABILITY OF DOCUMENTS FOR INSPECTION

1. The local authority must make available for inspection at their offices during normal office hours, and (if the local authority think fit) at such other places within the local authority's area and during such times at those places as the local authority may determine—
 - (a) in the case of a proposed scheme, the information referred to in regulation 2(4),
 - (b) a copy of the statement referred to in section 10(2) of the Act,
 - (c) a copy of any report prepared under regulation 4(4),
 - (d) in the case of a scheme made after the holding of an examination under section 12 of the Act, a copy of the report following that examination,
 - (e) a copy of the scheme as approved by the Scottish Ministers together with a statement of the date on which it comes into effect.

SCHEDULE 4

Regulation 17(1)

PROCEDURE FOR HEARINGS

Notice of hearing

- 1.—(1) Where the reporter determines that a hearing is to be held the reporter must give notice in writing to that effect to—
 - (a) the parties,

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- (b) 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(1)(b) must include—
 - (a) 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,
 - (b) details of a website in which copies of everything submitted to the reporter under regulations 6(2), 8(2), 10(3)(d) and 12 can be inspected.

Appearances at hearing

2. The parties entitled to appear at a hearing are those who have informed the reporter of their intention to appear under paragraph 1(2).

Date and notification of hearing

3.—(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 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,and any subsequent variation thereof.

Written statement

4.—(1) Where required to do so by notice in writing given by the reporter the initiating party or any party who submitted a response under regulation 8 must, by the date specified in the notice, send to—

- (a) the reporter,
- (b) any person the reporter specifies in the notice,

a written statement to be given to the hearing by a person included in the list of persons referred to in regulation 6(2)(e)(i) or regulation 8(2)(e)(i).

(2) The local authority proposing to make the scheme are, until such time as the inquiry is concluded, to afford to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of—

- (a) any document referred to in regulations 6, 8, 10(3)(d) and 12,
- (b) any written statement referred to in sub-paragraph (1).

(3) A written statement must not, unless the reporter agrees, contain more than 2000 words.

Procedure at hearing

5.—(1) Except as otherwise provided in this schedule, the procedure at a hearing is as the reporter determines.

(2) The reporter is, having considered any submission by the parties entitled to appear at the hearing, to state at the commencement of the hearing the procedure the reporter proposes to adopt.

(3) Any party 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 parties having a similar interest in the issues being considered at the hearing, the reporter may allow one or more party to appear on behalf of some or all of those parties.

(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 paragraph 3 applies as it applies to the variation of the date, time or place at which a hearing session is to be held.

SCHEDULE 5

Regulation 17(2)

PROCEDURE FOR INQUIRIES

Notice of inquiry session and specified matters

1.—(1) Where the reporter determines that an inquiry is to be held the reporter must give notice in writing to that effect to—

- (a) the parties,
- (b) any other person from whom the reporter wishes to hear in relation to specified matters at the inquiry.

(2) Within 14 days of the date of receiving a notice under paragraph (1) anyone intending to appear at the inquiry must inform the reporter of that intention in writing.

(3) A notice sent under paragraph 1(1)(b) must include—

- (a) confirmation that if parties do not reply to the reporter in terms of paragraph (2) they will not be entitled to appear at the inquiry,
- (b) details of a website in which copies of everything submitted to the reporter under regulations 6(2), 8(2), 10(3)(d) and 12 can be inspected.

Appearances at inquiry

2. The parties entitled to appear at an inquiry are those who have informed the reporter of their intention to appear under paragraph 1(2).

Date and notification of inquiry

3.—(1) The reporter must fix the date and time for the holding of the inquiry and the manner in which the inquiry 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 entitled to appear at the inquiry written notice of—

- (a) the date and time fixed for the holding of the inquiry,
- (b) the manner of the holding of the inquiry, including its location, if appropriate,

and any subsequent variation thereof.

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Precognitions

4.—(1) Where required to do so by notice in writing given by the reporter, the initiating party or any party who submitted a response under regulation 8 must, by the date specified in the notice, send to—

- (a) the reporter,
- (b) any person the reporter specifies in the notice,

a precognition in respect of any evidence to be given to the inquiry by a person included in the list of witnesses referred to in regulation 6(2)(e)(ii) or regulation 8(2)(e)(ii).

(2) The local authority proposing to make the scheme are, until such time as the inquiry is concluded, to afford to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of—

- (a) any document referred to in regulations 6, 8, 10(3)(d) and 12,
- (b) any precognition referred to in sub-paragraph (1).

(3) A precognition must not, unless the reporter agrees, contain more than 2000 words.

(4) In this paragraph “precognition” means a written statement of the evidence which it is proposed that a witness will give to the inquiry.

Procedure at inquiry

5.—(1) Except as otherwise provided in this schedule, the procedure at an inquiry is as the reporter determines.

(2) The reporter is, having considered any submission by the parties entitled to appear at the inquiry, to state at or before the commencement of the inquiry the procedure which the reporter proposes to adopt and in particular is to state—

- (a) the order in which the matters within the scope of the examination are to be considered at the inquiry, and
- (b) the order in which the persons entitled to appear at the inquiry session are to be heard in relation to a matter within the scope of the examination (a different order may be chosen for different matters).

(3) Any party entitled to appear at an inquiry may do so on their own behalf or be represented by another person.

(4) Where there are two or more parties having a similar interest in the matter under inquiry, the reporter may allow one or more parties to appear on behalf of some or all of those parties.

(5) Any party entitled to appear at the inquiry is entitled to call evidence, to cross-examine persons giving evidence and to make closing statements.

(6) But the reporter may refuse to permit—

- (a) the giving or production of evidence,
- (b) the cross-examination of persons giving evidence, or
- (c) the presentation of any other matter,

which the reporter considers to be irrelevant or repetitious.

(7) The reporter may proceed with an inquiry session in the absence of any party entitled to appear at the inquiry.

(8) The reporter may from time to time adjourn the inquiry and, if the date, time and place of the adjourned inquiry are announced before the adjournment, no further notice is to be required, otherwise

paragraph 3 applies as it applies to the variation of the date, time or place at which an inquiry session is to be held.

SCHEDULE 6

Regulation 20(a)

APPROVED DEVICES

1. The device must include a camera which is—
 - (a) securely mounted on a vehicle, a building, a post or other structure,
 - (b) mounted in such a position that vehicles driving within in a selected area of a low emission zone can be surveyed by it,
 - (c) connected by secure data links to a recording system, and
 - (d) capable of producing, in one or more pictures, an image or images of the vehicle in relation to which the low emission zone contravention was committed of sufficient detail to show the vehicle's—
 - (i) registration mark in legible form, and
 - (ii) enough of its location to show the circumstances of the contravention,at the time of the contravention.
2. The device must include a recording system in which—
 - (a) recordings are made automatically of the output from the camera or cameras surveying the vehicle and the place where a low emission zone contravention is occurring,
 - (b) there is a secure and reliable recording method that records at a minimum rate of 5 frames per second,
 - (c) each frame of all captured images is timed (in hours, minutes and seconds), dated and sequentially numbered automatically by means of a visual counter, and
 - (d) where the device does not occupy a fixed location, it records the location from which it is being operated.
3. The device and visual counter must be—
 - (a) synchronised with a suitably independent national standard clock, and
 - (b) accurate within plus or minus 10 seconds over a 14-day period and re-synchronised to the suitably independent national standard clock at least once during that period.
4. Where the device includes a facility to print a still image, that image when printed must be endorsed with the time and date when the frame was captured and its unique number.
5. The device must not be capable of recording sound track including spoken words.
6. In this schedule a “low emission zone contravention” has the meaning given in section 6(1) of the Act⁽⁷⁾.

(7) 2019 asp 17.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the creation and operation of a low emission zone scheme (“a scheme”).

Part 2 sets out the prior consultation requirements a local authority must satisfy before asking the Scottish Ministers to approve the making, amendment or revocation a scheme, in accordance with section 10 of the Transport (Scotland) Act 2019 (“the Act”).

Regulation 2 makes provision for additional consultees beyond those set out section 11 of the Act, and for representations to be made by all the consultees.

Regulation 3 outlines the specific publication requirements a local authority must adhere to prior to seeking approval from the Scottish Ministers in relation to a scheme. Part 1 of schedule 1 sets out the particulars to be included in the notice to be published by a local authority in accordance with regulation 3. Schedule 2 deals with display of notices of proposals for a scheme in a road which will be affected by the proposed scheme.

Regulation 4 makes provision for objections to be made within a 28 day period to a proposal in relation to a scheme. Paragraph 5 of Part 1 of schedule 1 specifies how an objection should be intimated to a local authority as well as the form and content of the objection.

Regulation 5 sets out to whom a local authority should give notice of the making of a scheme once approval has been given by the Scottish Ministers. Part 2 of schedule 1 sets out the required content of notices of the making of a scheme. Schedule 3 outlines the documents and information that must be made available for inspection as part of the notification process.

Part 3 sets out the process for how an examination of proposals relating to a scheme may take place. Regulation 6 requires that an initiating party, intending to bring about an examination under section 12 of the Act, comply with the specific notification requirements set out in that regulation.

Regulation 7 allows for the appointment of a reporter to carry out the examination.

Regulation 8 specifies the requirements for responses to the initiating party’s notice seeking an examination.

Regulation 9 makes provision for setting the scope of examinations.

Regulation 10 sets out the reporter’s obligation to initiate the procedure and establish the timetable for the examination.

Under regulation 11 the reporter can ask all parties to confirm whether they want to take part in any further procedure. Notices under this regulation must refer to the fact that if a party fails to respond to the notice they may not be allowed to take part in further procedure.

Regulation 12 allows the reporter to ask for further submissions or information, within the scope of the examination, from the parties.

Regulation 13 allows the reporter to carry out the examination and prepare a report on it without further procedure where the reporter considers that no further representations or information is required.

The reporter may hold a pre-examination meeting for the purposes of considering the manner in which the examination is to be conducted in accordance with regulation 14.

Regulation 15 requires the reporter to tell the parties if the examination will be by way of hearing or inquiry in the event that the reporter does not carry out the examination in accordance with regulation 13.

The reporter may also undertake an inspection of the zone relating to the proposal about a scheme under regulation 16.

Regulation 17(1) introduces schedule 4 which specifies the procedure for hearings into an examination under section 12 of the Act. Regulation 17(2) introduces schedule 5 regarding the procedure for conducting inquiries into such an examination.

Regulation 18 makes provision for the awards of expenses to be made in relation to examinations.

Regulation 19 requires the reporter to send the report prepared under section 12 of the Act to the parties to the examination, and to arrange for the report to be made available on the Scottish Government website.

In Part 4, regulation 20 introduces schedule 6, which makes provision for approved devices to be used in connection with the operation of a scheme.

In Part 5, regulation 21 requires local authorities to keep accounts regarding the operation of schemes.

Regulation 22 provides that the requirements set out in regulations 2 to 19, and in schedules 1 to 5, apply to proposals to amend or revoke a scheme as they do to proposals to make a scheme.

A Business and Regulatory Impact Assessment (“BRIA”) has been prepared in relation to these Regulations and placed in the Scottish Parliament Information Centre. A copy of the BRIA can be obtained from Transport Scotland, Buchanan House, 58 Port Dundas Road, Glasgow G4 0HF or online at www.legislation.gov.uk.