
SCOTTISH STATUTORY INSTRUMENTS

2022 No. 4

TRANSPORT

The Workplace Parking Licensing (Scotland) Regulations 2022

<i>Made</i>	- - - -	<i>10th January 2022</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>12th January 2022</i>
<i>Coming into force</i>	- -	<i>4th March 2022</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 74, 75(6), 76(5), 80(1)(b), 82(1) and 83(1) of the Transport (Scotland) Act 2019⁽¹⁾ and all other powers enabling them to do so.

In accordance with sections 74, 76(5), 80(1)(b) and 83(1) of that Act, the Scottish Ministers have consulted with such persons as they consider appropriate.

PART 1

Preliminary

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Workplace Parking Licensing (Scotland) Regulations 2022 and come into force on 4 March 2022.

(2) In these Regulations—

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

“First-tier Tribunal” and “Upper Tribunal” mean (respectively) the First-tier Tribunal for Scotland and the Upper Tribunal for Scotland (see section 1 (establishment of the tribunals) of the Tribunals (Scotland) Act 2014⁽²⁾),

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

“scheme” means a workplace parking licensing scheme,

“writing” and “written” include electronic communications within the meaning of section 15 (general interpretation) of the Electronic Communications Act 2000⁽³⁾.

⁽¹⁾ 2019 asp 17.

⁽²⁾ 2014 asp 10.

⁽³⁾ 2000 c. 7. Section 15 was relevantly amended by paragraph 158 of schedule 17 of the Communications Act 2003 (c. 21).

PART 2

Consultation, reporting and publication requirements

Publication of proposal

2. Before making a scheme, a local authority must—
 - (a) publish, at least once in a local newspaper circulating in the area to which the proposed scheme relates, notice of the proposal containing the information specified in Part 1 of schedule 1,
 - (b) publish on the local authority's website a copy of the documents required under section 73(1)(a) of the Act and the notice mentioned in paragraph (a),
 - (c) make a copy of those documents and that notice 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,
 - (d) send to the Scottish Ministers a copy of the documents and the notice mentioned in paragraph (b),
 - (e) 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.

Consultation

3. A local authority must send to any person it intends to consult under section 73(1)(b) of the Act—
 - (a) a copy of the documents required under section 73(1)(a) of the Act,
 - (b) notice of the time period for consultation responses to be submitted,
 - (c) notice of where such responses are to be sent.

Report following consultation

4. The report required under section 73(1)(c) of the Act must be—
 - (a) published on the local authority's website,
 - (b) sent to such persons consulted under section 73(1)(b) of the Act as the local authority considers appropriate,
 - (c) sent to the Scottish Ministers.

Notice of making a scheme

5. Within 14 days of making a scheme under section 72 of the Act a local authority must—
 - (a) publish—
 - (i) at least once in a local newspaper circulating in the area to which the scheme relates, and
 - (ii) on the local authority's website,notice of the making of the scheme containing the information specified in Part 2 of schedule 1,
 - (b) make available for inspection at their offices during normal office hours, and (if the local authority think fit) at such other places within its area and during such times at those places as it may determine—

- (i) a copy of the scheme as made together with a statement of the date on which it comes into effect,
- (ii) in the case of a scheme made after the holding of an examination under section 75 of the Act, a copy of the report following that examination,
- (c) publish the scheme and, where applicable, the report following the holding of an examination under section 75 of the Act on the local authority's website,
- (d) take such other steps as it considers appropriate for ensuring that adequate publicity about the making of the scheme is given to persons likely to be affected by it.

PART 3

Examinations

Examination of proposals

6.—(1) Where an initiating party intends to appoint a reporter to carry out an examination under section 75(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 who responded to the consultation carried out under section 73(1)(b) of the Act.
- (2) A notice of intention under 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 75(3) of the Act 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 documents required under section 73(1)(a) of the Act, and the report required under section 73(1)(c) of the Act,
 - (e) where the statement referred to in sub-paragraph (b) indicates that—
 - (i) a hearing under section 75(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 75(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) Where the initiating party is the Scottish Ministers, the local authority must, as soon as reasonably practicable after a request to do so by the Scottish Ministers, send a copy of the notice and accompanying information mentioned in this regulation to any person who responded to the consultation carried out under section 73(1)(b) of the Act.

(4) 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.

Appointment of reporter

7.—(1) A reporter appointed under section 75(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 an examination under section 75(2) of the Act the initiating party must send to the reporter—

- (a) copies of notices sent in accordance with regulation 6(1),
- (b) 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 75(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)(a), (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 75(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 75(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 matters which both the local authority proposing to make the scheme and the Scottish Ministers agree should be within the scope of the examination.

(2) 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) comply with the requirements set out in 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, the 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 the 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.

Pre-examination meetings

13.—(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.

Determination without further procedure

14. 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(4) and (5), 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 75(3) (a) of the Act.

Conclusion on further procedure

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

- (a) determine whether to carry out the examination by means of a hearing in accordance with section 75(3)(b) of the Act or by means of an inquiry in accordance with section 75(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 area to which the proposal to make a scheme relates, or
- (b) an inspection of the area accompanied by 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 inspection accompanied by any party, 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 party 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 2 specifies the procedure for the conduct of a hearing into an examination under section 75 of the Act.

(2) Schedule 3 specifies the procedure for the conduct of an inquiry into an examination under section 75 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 75(2) of the Act,
- (b) arrange for publication of the report on the Scottish Ministers' website.

Interpretation of Part 3

20. In this Part and schedules 2 and 3—

“initiating party” means whichever of the parties referred to in section 75(2) of the Act that appoints a reporter in terms of that section,

“party” means—

- (a) the local authority proposing to make the scheme,
- (b) the Scottish Ministers,
- (c) any person who submitted an opt-in notice under regulation 11.

PART 4

Liability to pay licence charge

Liability to pay licence charge

21.—(1) This paragraph applies where the occupier of premises has—

- (a) entered into arrangements with another person (P) for the provision by P of a parking place at those premises (whether or not for P's own use), and
- (b) provided the local authority with such evidence of those arrangements as that authority may reasonably require.

(2) Where paragraph (1) applies, the charge payable under a licence in respect of those premises must be paid by P.

PART 5

Reviews and appeals of licensing decisions

Application for review of decision by local authority

22.—(1) A scheme must make provision allowing for the recipient of a decision to make an application to the local authority for a review of the decision.

(2) An application for review—

- (a) must be made in writing within 28 days beginning with the date that notice of a decision is served on the applicant,
- (b) must include a statement in support of the application for review,
- (c) may be supported by such evidence as the applicant considers to be appropriate.

(3) The local authority may consider whether it is appropriate to take account of an application made under this regulation which is received by them after the end of the period mentioned in paragraph (2)(a).

(4) A decision which is the subject of an application for review does not have effect until the date of determination of that application.

(5) In this regulation and, as the case may be, regulations 23 and 24—

“applicant” means a person applying for a review of a decision of a local authority,

“decision” means—

- (a) a determination of an application for a licence or for renewal or variation of a licence,
- (b) a decision to attach a condition to a licence,
- (c) a decision to revoke, suspend or vary a licence.

Determination of application for review

23.—(1) Where an application for review of a decision is made to a local authority under regulation 22(1) within the period mentioned in regulation 22(2)(a) or taken account of by the local authority under regulation 22(3), it must consider the application and any supporting evidence provided.

(2) Following its consideration the local authority must determine the review by—

- (a) confirming the decision, or
- (b) revising the decision in such manner as it considers appropriate.

(3) The local authority must give the applicant notice of its determination under paragraph (2).

(4) The notice must—

- (a) state the reasons for the local authority’s determination,
- (b) state that an appeal against that determination may be made to the sheriff within 21 days beginning with the date on which the notice is sent, or such longer period as the sheriff may allow,
- (c) describe in general terms the manner and form for making an appeal,
- (d) state that the sheriff has the power to make an award of expenses.

Appeals against determination of local authority

24.—(1) An applicant may by summary application appeal to the sheriff against a determination made by a local authority under regulation 23(2).

(2) On determining an appeal under this regulation, the sheriff may—

(a) dismiss the appeal, or

(b) allow the appeal and quash the determination under regulation 23(2) in whole or in part.

(3) Where the appeal is allowed, the sheriff must remit the case with the reasons for the sheriff's decision to the local authority for reconsideration of the determination under regulation 23(2).

(4) The sheriff may include in the decision on an appeal under this regulation such order as to the expenses of the appeal as the sheriff thinks proper.

(5) A determination under regulation 23(2) which is the subject of an appeal under this regulation does not have effect until the date of final disposal of the appeal.

PART 6

Penalty charges and enforcement

Imposition of penalty charges

25.—(1) A scheme may provide for the imposition of a penalty charge in any of the following circumstances—

(a) where a person is providing a workplace parking place at any premises in respect of which a licence is required under a scheme and there is no licence in force in respect of those premises,

(b) where a person is providing a workplace parking place at any premises in respect of which a licence under a scheme is in force in circumstances where the number of vehicles occupying workplace parking places at those premises exceeds the maximum number of workplace parking places covered by the licence,

(c) where a condition in a licence under a scheme (other than a condition as to the number of vehicles which may occupy workplace parking places at the premises to which the licence relates) has been contravened.

(2) Where a scheme provides for the imposition of a penalty charge it must specify the period within which the charge must be paid and may specify different periods for different circumstances.

(3) A scheme may not specify under paragraph (2) a period of less than 28 days beginning with the date on which the penalty charge notice is served.

Rates of penalty charges

26.—(1) A scheme which provides for penalty charges must specify the amount of the penalty charge and may specify different amounts in different circumstances.

(2) A scheme may provide for the amount of the penalty charge to be reduced by a specified percentage if it is paid before the expiry of a specified period.

(3) A scheme may provide for the amount of the penalty charge to be increased by a specified percentage if—

(a) it is not paid before the expiry of the relevant period,

(b) representations in respect of the penalty charge are not made in accordance with regulation 30.

(4) Where a scheme makes provision as described in paragraph (3), it may specify different percentages for different purposes.

(5) In this regulation “relevant period” has the same meaning as in regulation 29(3).

Liability to pay penalty charges by persons other than the occupier of premises

27.—(1) This paragraph applies where the occupier of any premises has—

- (a) entered into arrangements with another person (P) for the provision by P of a parking place at those premises (whether or not for P’s own use), and
- (b) provided the local authority with such evidence of those arrangements as that authority may reasonably require.

(2) Where paragraph (1) applies, any penalty charge imposed in respect of those premises must be paid by P.

Penalty charge notices

28.—(1) Where a local authority has reason to believe that a penalty charge is payable under provision made in a scheme, it may serve a notice (a “penalty charge notice”) on the person liable to pay the charge.

(2) A penalty charge notice must state—

- (a) the amount of the penalty charge to which it relates,
- (b) the circumstances giving rise to the local authority’s belief that a penalty charge is payable by the recipient of the notice,
- (c) the period specified in the scheme within which the penalty charge must be paid,
- (d) the manner in which the penalty charge must be paid,
- (e) where the scheme so provides, the amount of the reduced penalty charge if it is duly paid before the expiry of any period specified for that purpose in the penalty charge notice,
- (f) the grounds on which the person on whom the penalty charge notice is served may make representations under regulation 30 and details of where such representations are to be sent, and
- (g) the amount of the increased penalty charge which may be payable if, before the end of the relevant period determined under regulation 29(3)—
 - (i) the penalty charge is not paid, or
 - (ii) no representations are made in accordance with regulation 30.

Charge certificates

29.—(1) This regulation applies where a scheme makes provision as described in regulation 26(3) and—

- (a) a penalty charge notice is served on a person, and
- (b) the penalty charge to which it relates is not paid before the end of the relevant period.

(2) Where this regulation applies the local authority that served the penalty charge notice may serve on that person a statement (a “charge certificate”) to the effect that the penalty charge is increased by such percentage as is specified under the scheme.

(3) The “relevant period” for the purposes of paragraph (1) means—

- (a) where a notice of rejection is served under regulation 31 but no appeal is made under regulation 32, the period of 28 days beginning with the date of service of the notice of rejection,
 - (b) where there has been an unsuccessful appeal against the imposition of the charge to the First-tier Tribunal and no subsequent application for review, or review, of the First-tier Tribunal's decision or appeal to the Upper Tribunal, the period of 28 days beginning with the date on which the decision of the First-tier Tribunal is sent to the appellant,
 - (c) where an application for review of the decision of the First-tier tribunal in an appeal against the imposition of the charge has been rejected and there has been no subsequent appeal to the Upper Tribunal, the period of 28 days beginning with the date on which the decision rejecting the application for review is sent to the applicant,
 - (d) where there has been an unsuccessful review of the decision of the First-tier tribunal in an appeal against the imposition of the charge and no subsequent appeal to the Upper Tribunal, the period of 28 days beginning with the date on which the decision refusing the review is sent to the applicant,
 - (e) where there has been an unsuccessful appeal against the imposition of the charge to the Upper Tribunal, the period of 28 days beginning with the date on which the decision of the Upper Tribunal is sent to the appellant,
 - (f) where an appeal to either the First-tier Tribunal or Upper Tribunal is withdrawn, the period of 14 days beginning with the date on which it is withdrawn, and
 - (g) where no representations are made under regulation 30(1) within the payment period, that period.
- (4) If representations are received by a local authority after the payment period and taken account of under regulation 30(3), the local authority must cancel a charge certificate served under paragraph (2).
- (5) Where in relation to a penalty charge notice—
- (a) the relevant period for the purposes of paragraph (1) has expired, and
 - (b) the increased charge for which the charge certificate provides is not paid before the end of the period of 14 days beginning with the date on which the certificate is served,
- the local authority may recover the increased charge as if it were payable under an extract registered decree arbitral bearing a warrant for execution issued by the sheriff for any sheriffdom.

Representations in respect of penalty charges

30.—(1) The recipient of a penalty charge notice may make written representations within the payment period to the local authority against the decision to serve a penalty charge notice on any of the grounds specified in paragraph (4).

(2) Where representations are made under paragraph (1), the recipient of the penalty charge notice must include evidence relevant to the specified ground relied upon.

(3) The local authority may consider whether it is appropriate to take account of representations made under paragraph (1) which are received by them after the end of the payment period.

(4) The specified grounds are—

- (a) that the alleged circumstances giving rise to liability to pay the penalty charge did not occur,
- (b) that the penalty charge, including any increased charge, exceeds the amount payable in the circumstances of the case,
- (c) that the penalty charge is payable by a different person.

(5) Where the ground mentioned in paragraph (4)(c) is relied on in any representations made under paragraph (1), those representations must include a statement of the name and address (if known) of the person who is considered by the recipient of the penalty charge notice to be responsible for payment of the penalty charge.

Response to representations

31.—(1) Where representations are made to a local authority under regulation 30(1) within the payment period, or taken account of by the local authority under regulation 30(3), it must—

- (a) consider those representations and any supporting evidence provided,
- (b) serve on the person by whom the representations were made a notice under paragraph (2) or, as the case may be, paragraph (3).

(2) Where a local authority accepts that at least one of the grounds specified in regulation 30(4) is established, it must—

- (a) cancel the penalty charge notice,
- (b) serve a notice on the person by whom the representations were made—
 - (i) stating that the penalty charge notice has been cancelled,
 - (ii) explaining the local authority's decision, and its reasons for that decision, on each of the grounds on which representations were made,
- (c) refund any penalty charge paid in relation to the cancelled penalty charge notice.

(3) Where a local authority is satisfied that none of the grounds on which representations are made is established, it must serve on the person by whom those representations were made a notice of rejection.

(4) The notice of rejection must—

- (a) state the reasons for the local authority's decision on each ground on which representations were made,
- (b) state that an appeal against the imposition of the penalty charge may be made to the First-tier Tribunal within the appeal period, or such longer period as the First-tier Tribunal may allow,
- (c) state the grounds upon which an appeal may be made (being the same grounds as are specified in regulation 30(4)),
- (d) describe in general terms the manner and form for making an appeal,
- (e) state that the First-tier Tribunal has power to make an award of expenses,
- (f) where the scheme allows for it, state that if the penalty charge is paid before the end of such period as may be specified in the scheme, the penalty charge will be reduced by a percentage specified in that scheme, and
- (g) where the scheme allows for it, state that unless, before the end of the appeal period—
 - (i) the penalty charge is paid, or
 - (ii) an appeal is made to the First-tier Tribunal against the imposition of the charge,

the local authority may issue a charge certificate under regulation 29 (and describe the effect of that regulation were it to do so).

Appeal to the First-tier Tribunal

32. A person on whom a penalty charge notice has been served may, on any of the grounds set out in regulation 30(4) and before the end of the appeal period or such longer period as the First-tier Tribunal may allow, appeal to the First-tier Tribunal against the imposition of the penalty charge if—

- (a) that person has made representations to the local authority under regulation 30(1), and
- (b) that person has received from the local authority a notice of rejection under regulation 31(3).

Interpretation of Part 6

33. In this Part—

“the appeal period” means the period of 28 days beginning with the date of service of the notice of rejection,

“increased charge” means the penalty charge payable in respect of a penalty charge notice in accordance with a charge certificate served in relation to that notice under regulation 29(2),

“notice of rejection” means the notice served on a person by a local authority under regulation 31,

“the payment period”, in relation to a penalty charge notice, means the period of 28 days beginning with the date of service of the notice.

PART 7

General

Accounts

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

- (a) keep adequate accounting records for that scheme showing for each financial year—
 - (i) how the net proceeds of the scheme have been calculated,
 - (ii) how the net proceeds of the scheme have been applied,
 - (iii) the value of the net proceeds of the scheme unspent at each financial year end,
- (b) prepare, in respect of each financial year, a statement of account based on the accounting records 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.

(2) Where a scheme is operated by two or more local authorities acting jointly those local authorities must, in addition to the requirement specified in paragraph (1)(a), keep adequate accounting records—

- (a) showing each authority’s share of net proceeds of the scheme, and
- (b) how the gross and net revenue of each authority’s share of the net proceeds of the scheme is calculated in accordance with the apportionment of any monies received from licence charges and penalty charges.

(3) In this regulation—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“adequate accounting records” has the meaning given in regulation 6 of the Local Authority Accounts (Scotland) Regulations 2014⁽⁴⁾,

“proper accounting practices” has the meaning given in section 12 of the Local Government in Scotland Act 2003⁽⁵⁾.

Amending and revoking schemes

35. The requirements of regulations 2 to 20 and schedule 1 apply to proposals to amend or revoke a scheme as they do to proposals to make a scheme.

St Andrew’s House,
Edinburgh
10th January 2022

GRAEME DEY
Authorised to sign by the Scottish Ministers

⁽⁴⁾ S.S.I. 2014/200.

⁽⁵⁾ 2003 asp 1. Section 12 was modified by S.S.I. 2013/121.

SCHEDULE 1

Regulations 2, 5 and 35

INFORMATION TO BE INCLUDED IN PRESS NOTICES

PART 1

PARTICULARS TO BE INCLUDED IN THE NOTICE OF PROPOSAL

1. The name of the local authority.
2. A description of the scheme proposal and its general nature and effect.
3. Each address at which a copy of the information referred to in regulation 2(b) 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 2(b) is available on the local authority's website.

PART 2

INFORMATION TO BE INCLUDED IN THE NOTICE OF MAKING THE SCHEME

1. The name of the local authority.
2. A description of the scheme as made.
3. The date of the making of the scheme and the date on which it comes into effect.
4. Each address at which a copy of the scheme, as made, can be inspected, and the times when inspection can take place at each such address.
5. The fact that a copy of the scheme as made is available on the local authority's website.

SCHEDULE 2

Regulations 17 and 20

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,
 - (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 sub-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 sub-paragraph (2) they will not be entitled to appear at the hearing,

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- (b) details of a website where copies of documents and information submitted to the reporter under these regulations 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 is, until such time as the hearing is concluded, to afford to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of—

- (a) any document or information 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 3

Regulations 17 and 20

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 sub-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 sub-paragraph (2) they will not be entitled to appear at the inquiry,
- (b) details of a website where documents and information submitted to the reporter under these regulations 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.

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,

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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 is, 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 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.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to workplace parking licensing schemes made under Part 7 of the Transport (Scotland) Act 2019 (“the Act”).

Part 2 of the Regulations makes provision about consultation, reporting and publication requirements relating to scheme proposals and schemes.

Regulation 2 specifies the steps which are to be taken by a local authority in relation to the publication of scheme proposals. Regulations 3 and 4 make provision about the information to be provided to consultees, and about publication of the report which is required to be prepared under the Act following consultation. Regulation 5 specifies the procedure to be followed in relation to giving notice of making a scheme. Schedule 1 contains associated provision with regard to information which is to be included in the notices of proposals and making of schemes.

Part 3 sets out the process for how an examination of proposals relating to a scheme may take place.

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. The reporter may hold a pre-examination meeting for the purpose of considering the manner in which the examination is to be conducted in accordance with regulation 13. Regulation 14 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. 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 decides to carry out the examination by way of either of those procedures. The reporter may also undertake an inspection of the area to which a proposal about a scheme relates by virtue of regulation 16.

Regulation 17(1) introduces schedule 2 which specifies the procedure for hearings into an examination under section 75 of the Act. Regulation 17(2) introduces schedule 3 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 75 of the Act to the parties to the examination, and to arrange for the report to be made available on the Scottish Government website.

Part 4 makes provision about who is liable to pay the licence charge.

Part 5 makes provision in connection with reviews and appeals of licensing decisions. Regulation 22 provides that a scheme must make provision allowing for an application to be made to the local authority for a review of a decision. Regulation 23 provides a process for responding to such an application, and regulation 24 provides for a right of appeal to the sheriff against a determination of the local authority in relation to an application for review.

Part 6 makes provision in connection with penalty charges and enforcement, including reviews and appeals against penalty charges. Regulation 27 establishes the circumstances under which a person other than the registered keeper of a vehicle is to be held liable for a penalty charge.

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Regulation 28 provides that penalty charge notices may be served by local authorities. Regulation 28(2) sets out the required content of a penalty charge notice.

Regulation 29 allows a local authority to serve a “charge certificate”, which has the effect of increasing the charge in question by such percentage as is specified under the scheme, on a person who has failed to pay a penalty charge within the timeframe specified in regulation 29(3).

Regulation 30 sets out the manner in which representations may be made against a penalty charge notice served under regulation 28, and the grounds on which such representations can be made.

Regulation 31 specifies the procedure and consideration that a local authority must afford to any representations received under regulation 30. This requires a local authority to provide notice of its decision in response to representations, addressing each ground on which the representations are made and stating whether it is accepted or refused by the local authority. Regulation 31(2) allows a local authority to cancel a penalty charge notice upon acceptance of a representation made under regulation 30(4). Regulation 31(3) and (4) provide that where a local authority does not accept any representations made under regulation 30 it must serve a notice of rejection which contains information as to how an appeal against that rejection may be made.

An appeal to the First-tier Tribunal against the imposition of a penalty charge may be made under regulation 32.

Part 7 makes provision in relation to accounts which must be kept in connection with schemes. It also extends the application of the requirements set out in Parts 2 and 3 to proposals to amend or revoke a scheme.

Impact assessments have been prepared in relation to these Regulations, copies of which can be obtained from Transport Scotland, Buchanan House, 58 Port Dundas Rd, Glasgow G4 0HF or online at www.gov.scot.