1957 No. 2038 (S. 101)

The Traffic Regulation Orders (Procedure) (Scotland) Regulations, 1957

Made - - - -	*22nd November*, 1957
Laid before Parliament	*29th November*, 1957
Coming into Operation	*2nd December*, 1957

In exercise of the powers conferred on me by sections 46 and 59 of the Road Traffic Act, 1930(a), section 29 of the Road and Rail Traffic Act, 1933(b), as read with the Transfer of Functions (Roads, Bridges and Ferries) Order, 1955(c), and section 33 of the Road Traffic Act, 1956(d), and of all other powers enabling me in that behalf I hereby make the following Regulations:—

PART I

General

1. These Regulations shall come into operation on the second day of December, 1957, and may be cited as the Traffic Regulation Orders (Procedure) (Scotland) Regulations, 1957.

2. The Regulation and Restriction of Road Traffic (Procedure) Regulations, 1931(e), in so far as the same are still in force, are hereby revoked, and the Regulation and Restriction of Road Traffic (Procedure) Provisional Regulations, 1934, are hereby also revoked except in relation to an order made by a council under subsection (2) of section 46 of the Act of 1930 which has been submitted to the Secretary of State for confirmation before the date of the coming into operation of these regulations and which before that date the Secretary of State has neither confirmed nor determined not to confirm.

3.—(1) In these regulations, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:—

"the Act of 1930" means the Road Traffic Act, 1930;

"the Act of 1956" means the Road Traffic Act, 1956;

"council" means a council to which section 46 of the Act of 1930 applies.

(2) Any reference in these regulations to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment.

(3) The Interpretation Act, 1889(f), shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(a) 20 & 21 Geo. 5. c. 43.
(b) 23 & 24 Geo. 5. c. 53.
(c) S.I. 1955/1955 (1955 I, p. 1205).
(d) 4 & 5 Eliz 2. c. 67.
(e) S.R. & O. 1931/486 (Rev. XX, p. 370: 1931 p. 1155).
(f) 52 & 53 Vict. c. 63.

PART II

Orders by a Council not requiring confirmation by the Secretary of State

4. In this Part of these regulations "order" means an order by a council under subsection (2) of section 46 of the Act of 1930, which by reason of subsection (3) of section 33 of the Act of 1956 does not require confirmation by the Secretary of State.

5. Before making an order, a council shall—

(*a*) consult with the chief constable of the police area in which the roads to which the proposed order relates are situated and with such other representative organisations as they think fit, and

(*b*) publish a notice of their proposal to make the order once at least in a local newspaper circulating in the district in which the said roads are situated and, subject to the provisions of regulation 15 of these regulations, once in the Edinburgh Gazette.

6. Every notice published in accordance with the last preceding regulation shall be in the form and contain the particulars specified in Part I of the First Schedule to these regulations.

7. During the period commencing on the date on which the notice mentioned in paragraph (*b*) of regulation 5 is first published in the local newspaper in accordance with the provisions of that regulation and ending immediately after the date by which objections to a proposed order may be sent in writing in accordance with the said notice, a council shall cause—

(*a*) a copy of the said notice to be displayed in a prominent position at each end of the roads or the sections thereof to which the proposed order relates, and

(*b*) a copy of the proposed order and a map clearly indicating in distinguishing colours the said roads, to be available for inspection during normal office hours at the offices of the council and, in the case of a county council, at a suitable place in the area in which the affected roads are situated.

8.—(1) Where an objection to a proposed order has been made in accordance with the notice mentioned in paragraph (*b*) of regulation 5 of these regulations and has not been withdrawn, the council may and, if—

(*a*) such proposed order contains provisions prohibiting or restricting the loading or unloading of vehicles, or

(*b*) such proposed order contains provisions requiring all vehicular traffic of any class or description specified in the order to proceed in a specified direction or prohibiting it from so proceeding, and such objection has been made by a person providing a service of stage carriages or express carriages on any road to which the order relates,

shall forthwith give notice in writing to the person by whom such objection has been so made informing him that, if within such period not being less than fourteen days as may be specified in the notice, he intimates that he so desires, an opportunity will be afforded him of being heard by the council or by a committee or sub-committee thereof or, if the council so decide, by an independent person, in support of his objection.

(2) If any person by whom objection has been made desires to be heard as aforesaid the council shall afford him an opportunity of being so heard either in person or by counsel, solicitor or agent; and if the council decide that he shall be heard by an independent person the council shall appoint for the purpose a suitable person, not being a member of the council or of any

committee or sub-committee thereof or a person in the employment of the council.

(3) Where a hearing is to take place before the council, a committee or sub-committee thereof, the council shall notify the objector in writing of the arrangements for the hearing not less than fourteen days before the date on which the hearing is to take place and the notice of any meeting of the council or of a committee or sub-committee thereof at which an objection is to be heard in pursuance of this regulation shall specify the hearing as an item of business.

(4) Any such hearing shall be held in public.

9. Where a hearing is to take place before an independent person in accordance with the provisions of this Part of these regulations the council shall—

(*a*) not less than fourteen days before the date on which the hearing is to be held publish a notice of the hearing in the form and containing the particulars specified in Part II to the First Schedule to these regulations once at least in a local newspaper circulating in the district in which the roads to which the proposed order relates are situated ; and

(*b*) during the period commencing on the date on which the notice is first published in the local newspaper in accordance with the last preceding sub-paragraph and ending immediately before the date on which the hearing is to be held cause—

(i) a copy of the said notice to be displayed in a prominent position at each end of the roads or sections thereof to which the proposed order relates, and

(ii) a copy of the proposed order and a map clearly indicating in distinguishing colours the said roads to be available for inspection at the offices of the council during the normal office hours and, in the case of a county council, at a suitable place in the area in which the affected roads are situated.

Any such hearing shall be held in public.

10. Where a hearing takes place in accordance with the provisions of this Part of these regulations, the independent person, council, committee or sub-committee, as the case may be, may refuse to hear any person or allow to be put forward for consideration at the hearing any objection, if he or they are satisfied that the views of that person or the objection are frivolous or such views have been adequately stated at the hearing by some other person.

11. Before deciding whether or not to make an order the council shall consider any objection which has been made to the proposed order and where a hearing has taken place in accordance with the provisions of this Part of these regulations shall further consider—

(*a*) any representations in respect thereof which have been heard by the council, or

(*b*) any report or recommendation made by a committee or sub-committee of the council or by an independent person.

12.—(1) After a council have decided to make an order, their decision to make the order shall be notified in writing to the chief constable of the police area in which the roads to which the order relates are situated and, where any objection has been made to the order and not withdrawn, to the person making such objection.

(2) Where any such objection has been made as aforesaid and not withdrawn, the council shall also notify in writing the person making the objection of their reasons for the decision to make the order.

13. Every order made by a council shall be signed and sealed in accordance with the provisions of section 342 of the Local Government (Scotland) Act, 1947(a).

14. After an order has been made by a council, the council shall—

(*a*) not later than fourteen days after the date of the making of the order publish a notice thereof in the form and containing the particulars specified in Part III of the First Schedule to these regulations once at least in a local newspaper circulating in the district in which the roads to which the order relates are situated and, subject to the provisions of regulation 15 of these regulations, once in the Edinburgh Gazette;

(*b*) forthwith keep available for inspection during normal office hours at the offices of the council a copy of the order and a map showing the roads to which the order relates; and

(*c*) forthwith cause to be erected on or near to the said roads traffic signs in such positions as may be requisite for the purpose of securing that adequate information as to the effect of the order is given to persons using the said roads:

Provided that nothing in this paragraph shall apply in the case of an order containing no provision other than provision revoking any prohibition, restriction or requirement as to the use of vehicles.

15. The provisions of regulation 5 in relation to an order which a council propose to make and the provisions of regulation 14 of these regulations in relation to an order which a council has made in so far as they provide for publication of a notice in the Edinburgh Gazette shall not apply in the case of an order containing no provision other than provision—

(*a*) prohibiting or restricting the use of footpaths or bridleways by bicycles and tricycles, or

(*b*) revoking or varying any such prohibition or restriction.

PART III

Orders by a Council requiring confirmation by the Secretary of State

16. In this Part of these regulations "order" means an order by a council under subsection (2) of section 46 of the Act of 1930 other than such an order which by reason of subsection (3) of section 33 of the Act of 1956 does not require confirmation by the Secretary of State.

17. Before making an order, a council shall consult with the chief constable of the police area in which the roads to which the proposed order relates are situated and with such other representative organisations as they think fit.

18. An order shall be made pursuant to a resolution passed at a meeting of the council.

19. Every application for confirmation of an order by the Secretary of State shall be accompanied by—

(*a*) three copies of the order, one of which shall be signed and sealed in accordance with the provisions of section 342 of the Local Government (Scotland) Act, 1947;

(a) 10 & 11 Geo. 6. c. 43.

(*b*) two maps on an appropriate scale on which the roads to which the order relates shall be clearly indicated in distinguishing colours and on which, in the case of an order containing provision prohibiting the use of a road by vehicular traffic or by such traffic of any class or description specified in the order, shall also be indicated the alternative route available for the vehicular traffic to which the order relates; and

(*c*) a statement of the reasons of the council for making the order, of the views of the chief constable and of the views of any representative organisation which the council may have consulted.

20. After the application by a council for confirmation of an order by the Secretary of State, the council shall—

(*a*) not later than twenty-one days after the date of the said application publish a notice of the application in the form and containing the particulars specified in Part I of the Second Schedule to these regulations once at least in a local newspaper circulating in the district in which the roads to which the order relates are situated and once in the Edinburgh Gazette;

(*b*) during the period commencing on the date on which the said notice is first published in the local newspaper as aforesaid and ending immediately after the date by which objections to the order may be sent in writing in accordance with the said notice, cause—

(i) a copy of the said notice to be displayed in a prominent position at each end of the roads to which the order relates; and

(ii) a copy of the order and a map clearly indicating in distinguishing colours the said roads to be available for inspection during normal office hours at the offices of the council and, where they consider it desirable, at a suitable place in the area in which the affected roads are situated:

Provided that where a council represent to the Secretary of State on application for confirmation of an order that a public inquiry appears to be desirable and the Secretary of State decides that such an inquiry shall be held the provisions of this regulation shall not apply.

21. If, before confirming an order, the Secretary of State determines that a public inquiry shall be held, the council shall—

(*a*) not less than fourteen days before the date on which the inquiry is to be held publish a notice of the inquiry in the form and containing the particulars specified in Part II of the Second Schedule to these regulations once at least in a local newspaper circulating in the district in which the roads to which the order relates are situated;

(*b*) where the council have represented to the Secretary of State on application for confirmation of an order that a public inquiry appears to be desirable publish a copy of the said notice in the Edinburgh Gazette; and

(*c*) during the period commencing on the date on which the said notice is first published in the local newspaper in accordance with paragraph (*a*) of this regulation and ending immediately before the date on which the inquiry is to be held, cause—

(i) a copy of the said notice to be displayed in a prominent position at each end of the roads or the sections thereof to which the order relates, and

(ii) a copy of the order and a map clearly indicating in distinguishing colours the said roads to be available for inspection during the normal office hours at the offices of the council and, in the case of a county council, at a suitable place in the area in which the affected roads are situated.

22. When the order has been confirmed, a council shall—

(*a*) not later than fourteen days after the date of confirmation of the order publish a notice thereof in the form and containing the particulars specified in Part III of the Second Schedule to these regulations once at least in a local newspaper circulating in the district in which the roads to which the order relates are situated and once in the Edinburgh Gazette;

(*b*) forthwith keep available for inspection at the offices of the council during normal office hours a copy of the order and a map showing the roads to which the order relates; and

(*c*) forthwith cause to be erected on or near to the said roads traffic signs in such positions as may be requisite for the purpose of securing that adequate information as to the effect of the order is given to persons using the said roads:

Provided that nothing in this paragraph shall apply in the case of an order containing no provision other than provision revoking any prohibition, restriction or requirement as to the use of vehicles.

PART IV

Orders by the Secretary of State under subsection (3) *of section* 46 *of the Road Traffic Act,* 1930

23. When an order has been made by the Secretary of State under subsection (3) of section 46 of the Road Traffic Act, 1930, a council shall publish a notice of the making of the order in the form and containing the particulars specified in the Third Schedule to these regulations once at least in a local newspaper circulating in the district in which the roads to which the order relates are situated and once in the Edinburgh Gazette:

Provided that where such an order revokes, varies or amends an order containing no provision other than provision prohibiting or restricting the use of footpaths or bridleways by bicycles and tricycles no such notice need be published in the Edinburgh Gazette.

PART V

Regulations relating to public inquiries

24. In this Part of the regulations "public inquiry" means an inquiry for the purposes of Part III of these regulations.

25. The person to conduct such an inquiry shall be appointed by the Secretary of State.

26.—(1) Any person interested in the subject matter of a public inquiry may appear at the inquiry either in person or by counsel, solicitor or agent.

(2) Any person so interested whether he proposes to appear at the inquiry or not may forward in accordance with the appropriate notice specified in Part II of the Second Schedule to these regulations to the person holding the inquiry for consideration at the inquiry any objection which he may wish to make in relation to the subject matter of the inquiry.

(3) The person holding the public inquiry may refuse to hear any person or allow to be put forward for consideration at the inquiry any such objection if he is satisfied that the views of that person or the objection are frivolous or such views have been adequately stated at the inquiry by some other person.

Dated this 22nd day of November, 1957.

John S. Maclay,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

FIRST SCHEDULE

FORMS OF NOTICES RELATING TO ORDERS NOT REQUIRING CONFIRMATION

PART I

FORM OF NOTICE OF PROPOSAL TO MAKE AN ORDER

Descriptive Title (a)

The (*b*) Council propose to make an Order under the Road Traffic Act, 1930, as amended, the effect of which is set out in the Schedule hereto.

Objections to the proposals must be sent in writing to the undersigned by (*c*)

(Name and address of Clerk to order-making Authority)

Schedule (d)

PART II

FORM OF NOTICE OF HEARING BEFORE AN INDEPENDENT PERSON

Descriptive Title (a)

A Hearing will be held by (*e*)
at (*f*)
to consider the proposal of the (*b*) Council to make an Order under the Road Traffic Act, 1930, as amended, the effect of which is set out in the Schedule hereto.

Any person interested is entitled to be heard at the hearing in person or by counsel, solicitor or agent and any person whether he intends to appear at the hearing or not may forward any objection to the proposal to (*e*)
at (*g*) A copy of any such objection should be sent at the same time to the undersigned.

(Name and address of Clerk to order-making Authority)

Schedule (d)

PART III

FORM OF NOTICE OF MAKING OF AN ORDER

Descriptive Title (a)

On the (*h*) the (*i*)
Council made an Order under the Road Traffic Act, 1930, as amended, the effect of which is set out in the Schedule hereto.

(Name and address of Clerk to order-making Authority)

Schedule (d)

NOTES

(*a*) Here insert short descriptive title, e.g. Traffic Regulation—Kirkcaldy ;

(*b*) Here insert name of Council proposing to make the Order ;

(*c*) Here insert date not less than 21 days from the date of the first publication of this notice in the local newspaper or in the Edinburgh Gazette, whichever is the later ;

(*d*) Here insert brief but accurate description of the effect of the Order ;

(*e*) Here insert name of person before whom the hearing is to take place ;

(*f*) Here insert place, date and time at which the hearing will take place ;

(*g*) Here insert address of person before whom the hearing is to take place ;

(*h*) Here insert date of making of the Order ;

(*i*) Here insert name of Council making the Order.

SECOND SCHEDULE

FORMS OF NOTICE RELATING TO ORDERS REQUIRING CONFIRMATION

PART I

FORM OF NOTICE OF APPLICATION FOR CONFIRMATION OF AN ORDER

Descriptive Title (*a*)

The (*b*) Council have applied to the Secretary of State for confirmation of an Order made by them under the Road Traffic Act, 1930, as amended, the effect of which will be as set out in the Schedule hereto.

Objections to the Order must be sent to the Secretary, Scottish Home Department, Bankhead Avenue, Sighthill, Edinburgh, 11, by (*c*) and a copy sent to the undersigned.

(Name and address of Clerk to order-making Authority)

Schedule (*d*)

PART II

FORM OF NOTICE OF PUBLIC INQUIRY TO BE HELD BY THE SECRETARY OF STATE

Descriptive Title (*a*)

A Public Inquiry will be held by (*e*) at (*f*) to consider the Order made by the (*b*) under the Road Traffic Act, 1930, as amended, the effect of which is set out in the Schedule hereto.

Any person interested is entitled to be heard at the inquiry in person or by counsel, solicitor or agent and any person whether he intends to appear at the inquiry or not may forward any objection to the Order to (*e*) at (*g*) . A copy of any such objection should be sent at the same time to the Secretary, Scottish Home Department, Bankhead Avenue, Sighthill, Edinburgh, 11.

(Name and address of Clerk to order-making Authority)

Schedule (*d*)

PART III

FORM OF NOTICE OF CONFIRMATION OF AN ORDER

Descriptive Title (*a*)

On the (*h*) the Secretary of State confirmed the (*i*) made by the (*b*) Council under the Road Traffic Act, 1930, as amended, the effect of which is set out in the Schedule hereto.

(Name and address of Clerk to order-making Authority)

Schedule (*d*)

NOTES

(*a*) Here insert short descriptive title, e.g. Traffic Regulation—Kirkcaldy ;

(*b*) Here insert name of Council making the Order ;

(*c*) Here insert date not less than 21 days from the date of the first publication of this notice in the local newspaper or in the Edinburgh Gazette, whichever is the later ;

(*d*) Here insert brief but accurate description of the effect of the Order ;

(*e*) Here insert name of person holding public inquiry ;

(*f*) Here insert place, date and time at which public inquiry will be held ;

(*g*) Here insert address of person holding public inquiry ;

(*h*) Here insert date of confirmation of the Order ;

(*i*) Here insert title of the Order.

THIRD SCHEDULE

FORM OF NOTICE RELATING TO ORDERS MADE BY THE SECRETARY OF STATE UNDER SUBSECTION (3) OF SECTION 46 OF THE ROAD TRAFFIC ACT, 1930.

Descriptive Title (*a*)

On the (*b*) the Secretary of State made the (*c*) revoking/varying/amending (*d*) the (*e*) made by the (*f*) Council under the Road Traffic Act, 1930, as amended. The effect of the Secretary of State's Order is set out in the Schedule hereto.

(Name and address of Clerk to the Authority having made the Order revoked, varied or amended by the Secretary of State)

Schedule (*g*)

NOTES

(*a*) Here insert short descriptive title, e.g. Traffic Regulation—Kirkcaldy ;

(*b*) Here insert date of making of the Order ;

(*c*) Here insert title of Order made by the Secretary of State ;

(*d*) Insert as appropriate ;

(*e*) Here insert title of original Order ;

(*f*) Here insert names of Council which made the original Order ;

(*g*) Here insert brief but accurate description of the Order.

EXPLANATORY NOTE

(*This note is not part of the Regulations, but is intended to indicate their general purport.*)

These Regulations, which apply to Scotland, supersede the Regulation and Restriction of Road Traffic (Procedure) Regulations, 1931, in so far as the same are still in force and the Regulation and Restriction of Road Traffic (Procedure) Provisional Regulations, 1934.

These Regulations re-enact with amendment the earlier Regulations and the main difference is that these Regulations prescribe the procedure to be followed in connection with the making by local authorities under section 46 of the Road Traffic Act, 1930, of Orders regulating traffic on roads which by reason of sub-section (3) of section 33 of the Road Traffic Act, 1956, do not require confirmation by the Secretary of State.