STATUTORY INSTRUMENTS

1961 No. 669 (S. 40)

ROAD TRAFFIC

The Traffic Regulation Orders (Procedure) (Scotland) Regulations, 1961

Made - - - -	4*th April*, 1961
Laid before Parliament	12*th April*, 1961
Coming into Operation	13*th April*, 1961

In exercise of the powers conferred on me by section 29 of the Road Traffic Act, 1960(a), and of all other powers enabling me in that behalf, and after consultation with representative organisations in accordance with the provisions of subsection (2) of section 260 of that Act, I hereby make the following regulations:—

PART I

General

1. These regulations may be cited as the Traffic Regulation Orders (Procedure) (Scotland) Regulations, 1961, and shall come into operation on the 13th day of April, 1961.

2. The Traffic Regulation Orders (Procedure) (Scotland) Regulations, 1957(b), are hereby revoked except in relation to an order defined in Part II of those regulations and in respect of which a notice of the proposal to make it has been published by a council in accordance with those regulations before the date of the coming into operation of these regulations and to an order defined in Part III of those regulations and in respect of which an application for confirmation thereof has been submitted to the Secretary of State before the said date.

3.—(1) In these regulations the following expressions have the meanings hereby respectively assigned to them:—

"the Act of 1960" means the Road Traffic Act, 1960; and

"council" means a county council or a town council.

(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(c), shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

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 section 26 of the Act of 1960, or an order by a council under subsection (3) of section 27 of the said Act, not being an order requiring confirmation by the Secretary of State under the said section 27 or subsection (8) of section 11 of the Road Traffic and Roads Improvement Act, 1960(d).

(a) 8 & 9 Eliz. 2. c. 16.
(b) S.I. 1957/2038 (1957 II, p. 2118).
(c) 52 & 53 Vict. c. 63.
(d) 8 & 9 Eliz. 2. c. 63.

5. Before making an order, a council shall—

(*a*) consult with the chief constable of the police area in which are situated the roads to which the proposed order relates and with such 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 are situated the said roads and, subject to the provisions of Regulation 16 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 of these regulations is first published in the local newspaper in accordance with the provisions of that paragraph 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 or near each end of the roads or sections thereof to which the proposed order relates, and in such other positions as the council think requisite for the purpose of securing that adequate information is given to persons using the said roads, and

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

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 the objection relates to a provision in a proposed order which would—

(*a*) prohibit or restrict the loading or unloading of vehicles, or

(*b*) require vehicular traffic or such traffic of any class or description specified in the order to proceed in a specified direction or prohibit it from so proceeding, and 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.—(1) 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 of the First Schedule to these regulations once at least in a local newspaper circulating in the district in which are situated the roads to which the proposed order relates ; 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 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 or near each end of the roads or sections thereof to which the proposed order relates, and in such other positions as the council think requisite for the purpose of securing that adequate information is given to persons using the said roads, and

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

(2) 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 objections, if he is or they are satisfied that the views of that person are or the objection is 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. Where a hearing is held in accordance with the foregoing provisions of this Part of these regulations into a proposed order containing provision which would prohibit the loading or unloading of vehicles at any place on a road during more than six hours in all in any consecutive period of twenty-four hours—

(*a*) the council shall—

(i) send to the Secretary of State a copy of the report and recommendations made following the hearing, together with a copy of the proposed order and of the map referred to in paragraph (*b*) of Regulation 7 of these regulations ; and

(ii) within seven days of complying with the last preceding sub-paragraph inform any person who has made any objection at the hearing of the sending by the council to the Secretary of State of the documents referred to in that sub-paragraph ; and

(*b*) no order containing such provision as aforesaid shall be made by the council until one month has elapsed since the date on which the documents referred to in sub-paragraph (i) of the last preceding paragraph were sent to the Secretary of State.

13.—(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 are situated the roads to which the order relates and, where any objection has been made to the order in accordance with the notice mentioned in paragraph (*b*) of Regulation 5 or sub-paragraph (*a*) of paragraph (1) of Regulation 9 of these regulations 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.

14. 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).

15. 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 are situated the roads to which the order relates and, subject to the provisions of Regulation 16 of these regulations, once in the Edinburgh Gazette ;

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

(*c*) forthwith take all such steps as are reasonably practicable to cause to be erected on or near to the said roads traffic signs in such positions as the council may consider to 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.

16. The provisions of Regulation 5 in relation to an order which a council propose to make and the provisions of Regulation 15 of these regulations in relation to an order which a council have 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.

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

PART III

Orders by a council requiring confirmation by the Secretary of State

17. In this Part of these regulations "order" means an order by a council under section 26 of the Act of 1960, or an order by a council under subsection (3) of section 27 of the said Act, being an order requiring confirmation by the Secretary of State under the said section 27, but does not include an order under the said section 26 to which Part III of the Parking Places Orders (Procedure) (Scotland) Regulations, 1961(a), applies.

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

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

20. 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;

(*b*) two maps on an appropriate scale on which the roads to which the order relates shall be clearly indicated in distinguishing colours or markings 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 said provision 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.

21. 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 are situated the roads to which the order relates and once in the Edinburgh Gazette;

(*b*) during the period commencing on the date on which the 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 or near each end of the roads or sections thereof to which the order relates and in such other positions as the council think requisite for the purpose of securing that adequate information is given to persons using the said roads; and

(ii) a copy of the order and a map similar to those mentioned in paragraph (*b*) of Regulation 20 of these regulations to be available

(a) S.I. 1961/505. (*See* p. 1145 of this Pt.)

for inspection at the offices of the council during the normal office hours of the council and, in the case of a county council, at a suitable place in the area in which are situated the said roads:

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.

22. 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 are situated the roads to which the order relates;

(*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 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 or near each end of the roads or sections thereof to which the order relates and in such other positions as the council think requisite for the purpose of securing that adequate information is given to persons using the said roads; and

(ii) a copy of the order and a map similar to those mentioned in paragraph (*b*) of Regulation 20 of these regulations to be available for inspection at the offices of the council during the normal office hours of the council and, in the case of a county council, at a suitable place in the area in which are situated the said roads.

23. When the order has been confirmed, the 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 are situated the roads to which the order relates and once in the Edinburgh Gazette;

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

(*c*) forthwith take all such steps as are reasonably practicable to cause to be erected on or near to the said roads traffic signs in such positions as the council may consider to 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 27 of the Road Traffic Act, 1960

24. When an order has been made by the Secretary of State under subsection (3) of section 27 of the Act of 1960, the 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 are situated the roads to which the order relates 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

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

26. The person to conduct the public inquiry shall be appointed by the Secretary of State.

27.—(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 public 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 to consider at the inquiry any such objection if he is satisfied that the views of that person are or the objection is frivolous or such views have been adequately stated at the inquiry by some other person.

Dated this fourth day of April, 1961.

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

St. Andrew's House,
Edinburgh, 1.

FIRST SCHEDULE

FORMS OF NOTICE 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 section [26] [27] of the Road Traffic Act, 1960, 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 section [26] [27] of the Road Traffic Act, 1960, the effect of which is set out in the Schedule hereto.

Any person interested is entitled to be heard in person or by counsel, solicitor or agent and any person whether he intends to appear at the hearing or not may forward any object 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 section [26] [27] of the Road Traffic Act, 1960, 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 of the Order, 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 section [26] [27] of the Road Traffic Act, 1960, 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, S. Andrew's House, Edinburgh, 1 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 section [26] [27] of the Road Traffic Act, 1960, 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, St. Andrew's House, Edinburgh, 1.

(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, 1960, 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 of the Order, 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 the public inquiry;

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

(*g*) Here insert address of person holding the 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 27 OF THE ROAD TRAFFIC ACT, 1960

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 section 27 of the Road Traffic Act, 1960. 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*)

(*a*) Here insert short descriptive title of the Order, 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 name 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, replace the Traffic Regulation Orders (Procedure) (Scotland) Regulations, 1957, which prescribe the procedure to be followed in connection with the making by local authorities of orders under sections 26 and 27 of the Road Traffic Act, 1960. The main changes are:—

1. New provision is made that, where a public hearing has been held into any proposed order which would prohibit the loading or unloading of vehicles on a road during more than six hours in all in any period of twenty-four hours, a copy of the report of the hearing, together with certain other documents, must be sent to the Secretary of State. Objectors must be informed that this has been done and no such order must be made by the local authority until one month has elapsed since the documents were sent to the Secretary of State (Regulation 12).

2. Certain orders under section 26 are excluded from the operation of Part III of the Regulations if they are orders made jointly under that section and section 81 of the Road Traffic Act, 1960 to which Part III of the Parking Places Orders (Procedure) (Scotland) Regulations, 1961 (S.I. 1961/505) applies (Regulation 17).