



Transport (Scotland) Act 2019

2019 asp 17

PART 2

LOW EMISSION ZONES

CHAPTER 1

EFFECT OF A LOW EMISSION ZONE SCHEME

6 Restriction on driving within a zone

- (1) A person may not drive a vehicle on a road within a low emission zone in contravention of the terms of a low emission zone scheme unless—
 - (a) the vehicle meets the specified emission standard, or
 - (b) the vehicle is exempt by virtue of subsection (4)(b) or section 17.
- (2) Where a person drives a vehicle on a road within a low emission zone in contravention of subsection (1), a penalty charge is payable in respect of the contravention.
- (3) But, despite subsection (2), if—
 - (a) the same vehicle is driven within the same low emission zone in contravention of subsection (1) on more than one occasion in the course of the same day, and
 - (b) the person to whom the penalty charge notice would be issued in respect of those contraventions is the same person,only one penalty charge is payable in respect of the contraventions.
- (4) The Scottish Ministers may by regulations, following consultation with such persons as they consider appropriate—
 - (a) make provision for or in connection with the specification of the emission standard for the purpose of subsection (1)(a),
 - (b) specify vehicles or types of vehicle which are exempt for the purpose of subsection (1)(b) including, in particular, by reference to their construction or use,

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- (c) make provision for or in connection with the amount that may be imposed as a penalty charge under subsection (2) (which may include provision for discounts and surcharges).

7 Proving contraventions and issue of a penalty charge notice

- (1) The fact that a person was driving a vehicle on a road within a low emission zone may be established only on the basis of a record produced by an approved device.
- (2) A record obtained from the Secretary of State or from another source as specified in regulations by the Scottish Ministers, certifying a vehicle's emission standard as at the date and time of the record produced by an approved device, is determinative of whether the vehicle meets the specified emission standard.
- (3) Where a local authority considers that a penalty charge is payable under section 6(2) in respect of a low emission zone scheme it has made, it may issue, or make arrangements relating to the issue of, a penalty charge notice in accordance with regulations under section 8(1).
- (4) A penalty charge under section 6(2) is payable to the local authority which issued the penalty charge notice—
 - (a) by the registered keeper of the vehicle, or
 - (b) in such circumstances, following consultation with such persons as they consider appropriate, as the Scottish Ministers by regulations specify, by such other person as is so specified.

8 Enforcement

- (1) The Scottish Ministers may, following consultation with such persons as they consider appropriate, by regulations make provision for or in connection with the enforcement of low emission zone schemes.
- (2) Regulations under subsection (1) may, in particular, make provision for or about—
 - (a) penalty charge notices (including the form, content and method of issue),
 - (b) the timing and manner of payment of a penalty charge,
 - (c) reviews and appeals (including grounds of review or appeal) in connection with the issuing of penalty charge notices,
 - (d) the manner in which a penalty charge notice may be enforced,
 - (e) steps that may be taken following the cancellation of a penalty charge notice (including the issuing of another penalty charge notice in respect of the same contravention),
 - (f) enabling local authorities to enter into arrangements with any person in connection with the exercise of a function conferred on a local authority by the regulations or under section 7.
- (3) Regulations under subsection (1) may include provision—
 - (a) creating offences,
 - (b) about the records to be produced by or in connection with approved devices (including what constitutes sufficient evidence of a fact).
- (4) The maximum penalty that may be provided for in regulations under subsection (1) creating offences is, on summary conviction, a fine not exceeding level 5 on the standard scale.

CHAPTER 2

CREATION AND MODIFICATION OF A LOW EMISSION ZONE SCHEME

Process

9 Power to make or modify a low emission zone scheme

- (1) At any time, a local authority may (in accordance with this Chapter)—
 - (a) make a low emission zone scheme for all or part of its area,
 - (b) amend or revoke a low emission zone scheme made by it.
- (2) Where two or more local authorities act jointly to make a low emission zone scheme—
 - (a) they must continue to act jointly in relation to the scheme in all respects, and
 - (b) a reference to the area of a local authority is a reference to the combined areas of those authorities.

10 Ministerial approval

- (1) A low emission zone scheme cannot be made, amended or revoked unless the proposal to make, amend or revoke the scheme is approved by the Scottish Ministers.
- (2) When seeking the approval of the Scottish Ministers for such a proposal, the local authority must provide a statement setting out—
 - (a) details of the consultation it has undertaken under section 11, and
 - (b) how it has taken account of any representations received in the course of that consultation.
- (3) In approving the making, amendment or revocation of a low emission zone scheme, the Scottish Ministers may make such modifications to the proposal as they consider appropriate.
- (4) In considering whether to approve the making, amendment or revocation of a low emission zone scheme, the Scottish Ministers—
 - (a) must take into account the statement provided by the local authority under subsection (2), and
 - (b) may consult, or require the local authority whose proposal it is to consult, such persons as Ministers consider appropriate.

11 Prior consultation

Before a local authority asks the Scottish Ministers to approve the making, amendment or revocation of a low emission zone scheme, it must consult—

- (a) the Scottish Environment Protection Agency,
- (b) Scottish Natural Heritage,
- (c) Historic Environment Scotland,
- (d) such persons as the authority considers represent the interests of—
 - (i) the road haulage industry,
 - (ii) the bus and coach industry,
 - (iii) the taxi and private hire car industry,

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- (iv) local businesses, and
 - (v) drivers,
- likely to be affected by the proposal,
- (e) such persons (if any) as are specified by the Scottish Ministers in regulations,
 - (f) such other persons as the authority considers appropriate.

12 Examination of proposals

- (1) This section applies where a local authority proposes to make, amend or revoke a low emission zone scheme.
- (2) Either—
 - (a) the local authority making the proposal, or
 - (b) the Scottish Ministers,
 may (if it or they consider it appropriate) appoint a person (“the reporter”) to carry out an examination of, and prepare a report on, the proposal or any aspect of it.
- (3) The reporter may carry out an examination in such manner as the reporter considers appropriate and may, in particular, do so by means of—
 - (a) consideration of written representations only,
 - (b) conducting a hearing at which a person who has made representations in respect of the proposal may be given an opportunity to appear and be heard, or
 - (c) holding an inquiry into the proposal.
- (4) Subsections (3) to (5) of section 210 of the Local Government (Scotland) Act 1973 (provisions relating to local inquiries) apply in relation to a hearing or inquiry under subsection (3) of this section as they apply in relation to an inquiry under that Act.
- (5) Where an examination is to be carried out, the local authority may not proceed with the proposal until the examination has been completed.
- (6) The Scottish Ministers may by regulations make further provision in relation to examinations to be carried out under this section.
- (7) Without limit to that generality, such regulations may make provision—
 - (a) about who may be appointed to carry out an examination under this section,
 - (b) about the procedure for examinations under this section and, in particular, in relation to—
 - (i) any representations which are (or are not) to be taken into account,
 - (ii) who may appear at a hearing or inquiry,
 - (iii) the procedure for the conduct of any hearing or inquiry,
 - (iv) things which must be done in preparation for, or following, a hearing or inquiry,
 - (c) in relation to the financial aspects of an examination and, in particular, about the payment of remuneration, costs and expenses,
 - (d) in relation to the report to be prepared including, in particular, its form, content and publication.

13 Ministers' power to regulate process

The Scottish Ministers may by regulations make provision about the procedures in relation to low emission zone schemes including, in particular, provision—

- (a) specifying the form of a scheme, or any amendment to or revocation of it,
- (b) about consultation on proposals (including the publication of proposals and the making and consideration of representations),
- (c) about the publication of notice of the making, amendment or revocation of a scheme and of their effect.

Content

14 Required content of a scheme

- (1) A low emission zone scheme must specify—
 - (a) the zone to which it relates, which must be specified—
 - (i) by reference to an area on a map, and
 - (ii) by specifying the roads (or parts of a road) which form part of the zone,
 - (b) the date on which the scheme comes into effect,
 - (c) the types of vehicles to which it applies, which must be specified by reference to the vehicles' construction (and subject to any exemptions specified by the Scottish Ministers in regulations under section 6(4)(b)),
 - (d) the scheme's objectives,
 - (e) the grace periods applicable under section 15.
- (2) Where a low emission zone scheme is made by two or more local authorities jointly, the scheme must make provision as to how any monies received from penalty charges in respect of the scheme are to be apportioned between (or among) those authorities.
- (3) For the purpose of subsection (1)(a)(ii), a low emission zone scheme may not specify—
 - (a) a private road, or
 - (b) a special road,within the meaning of section 151(1) of the Roads (Scotland) Act 1984.
- (4) The objectives specified under subsection (1)(d) must include—
 - (a) an objective of contributing towards meeting the air quality objectives prescribed under section 87(1) of the Environment Act 1995 (regulations about air quality), and,
 - (b) an objective of contributing towards meeting the emission reduction targets set out in Part 1 of the Climate Change (Scotland) Act 2009.
- (5) A scheme may make different provision for different purposes, types of vehicles, or areas.

15 Grace period

- (1) Section 6(1) is not contravened by a vehicle being driven on a road within a low emission zone prior to the expiry of the applicable grace period.

- (2) In subsection (1), “the applicable grace period” means the period that the low emission zone scheme specifies as applying—
- (a) in relation to the road, or part of the road, on which the vehicle was driven,
 - (b) in relation to the type of vehicle being driven, by reference to its construction, and
 - (c) to the individual who is the registered keeper of the vehicle.
- (3) A low emission zone scheme must specify—
- (a) a grace period that applies to individuals whose registered address in respect of the vehicle is a residential property within the zone (“residents”),
 - (b) a grace period that applies to individuals whose registered address is not (“non-residents”), and
 - (c) in relation to both paragraphs (a) and (b), the types of vehicle to which the grace period applies (which may vary as between residents and non-residents).
- (4) A grace period begins on the day the low emission zone scheme comes into effect.
- (5) The grace period applicable to non-residents must expire—
- (a) not less than 1 year after it begins, and
 - (b) not more than 4 years after it begins.
- (6) The grace period applicable to residents must expire not more than 2 years after the expiry of the grace period applicable to non-residents.
- (7) Subsections (4) to (6) are subject to section 16.

16 Grace periods: further provision

- (1) Subsections (2) to (5) apply where a road or part of a road—
- (a) forms, or has formed, part of a zone to which a low emission zone scheme (“the original scheme”) relates, and
 - (b) is to become, within 12 months of the original scheme ceasing to have effect in relation to the road or part of a road, part of a zone to which a low emission zone scheme (“the subsequent scheme”) relates.
- (2) If—
- (a) a grace period is specified as applying to the road or part of a road in the original scheme, and
 - (b) that period has expired, or is due to expire, before the road or part of a road becomes part of the zone to which the subsequent scheme relates,
- no grace period of the same type may be specified as applying to the road or part of a road in the subsequent scheme.
- (3) For the purposes of subsection (2), grace periods are of the same type as one another if they are both specified (or to be specified) in accordance with the same subsection of section 15.
- (4) If—
- (a) a grace period is specified as applying to the road or part of a road in the original scheme, and
 - (b) that period is not due to expire before the road or part of a road becomes part of the zone to which the subsequent scheme relates,

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subsection (5) applies.

(5) In the circumstances described in subsection (4), the maximum length of the grace period that may be specified as applying to the road or part of a road in the subsequent scheme is to be reduced by the length of time that a grace period will have applied to the road or part of a road when it becomes part of the zone to which the subsequent scheme relates.

(6) Where—

- (a) a low emission zone scheme is modified to include a road or part of a road that did not previously form part of the zone to which the scheme relates, and
- (b) the road or part of a road has not formed part of a zone to which a low emission zone scheme relates within the period of 12 months prior to the modification taking effect,

subsection (7) applies.

(7) In the circumstances described in subsection (6)—

- (a) grace periods must be specified as applying to the road or part of a road in the modified scheme mentioned in subsection (6)(a), and
- (b) those periods are to be specified on the basis that—
 - (i) section 15(4) does not apply, and
 - (ii) the grace periods begin on the day the modification takes effect.

17 Time-limited exemptions

(1) A low emission zone scheme may provide for the granting and renewal, by the local authority which made the scheme, of a time-limited exemption in respect of a vehicle or type of vehicle for the purpose of section 6(1)(b), by reference to the vehicle's use.

(2) Where a low emission zone scheme makes provision for time-limited exemptions under subsection (1), it must specify—

- (a) the circumstances in which the local authority must, may or must not grant or renew an exemption,
- (b) the maximum period for which an exemption may be granted (which must be no longer than 1 year).

(3) A low emission zone scheme must—

- (a) provide for the granting and renewal, by the local authority which made the scheme, of a time-limited exemption for the purpose of section 6(1)(b) in respect of vehicles which enter the zone to which the scheme relates solely due to their following a signed diversion as a result of a temporary road closure, and
- (b) specify the maximum period for which such an exemption is granted (which must be no longer than the length of the road closure).

(4) A time-limited exemption granted or renewed by virtue of subsection (1) or (3) is subject to such conditions or restrictions as are specified by the local authority in the grant or renewal.

18 Power to alter operating hours

(1) Subject to subsection (2), a low emission zone operates at all times.

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(2) A low emission zone scheme may specify different rules as to when a zone operates.

19 Ministers’ power to specify additional content

The Scottish Ministers may by regulations prescribe further information that may or must be included in a low emission zone scheme.

CHAPTER 3

OPERATION OF A LOW EMISSION ZONE SCHEME

Equipment and signs

20 Use of equipment

- (1) This section applies where a local authority has made a low emission zone scheme.
- (2) The traffic authority for a road may—
 - (a) install and maintain, or secure the installation and maintenance of, approved devices,
 - (b) construct and maintain, or secure the construction and maintenance of, buildings or other structures,
 on a road for use for or in connection with the operation of the scheme.
- (3) The traffic authority may remove, or secure the removal of, anything installed or constructed under subsection (2).

21 Approved devices

- (1) The Scottish Ministers may by regulations make provision for or about the approval of devices to be used for or in connection with the operation of a low emission zone scheme.
- (2) A device may not be used for or in connection with the operation of a low emission zone scheme if—
 - (a) regulations under subsection (1) make provision for or about the approval of that type of device, and
 - (b) the device is not of a type approved by virtue of the regulations.

22 Traffic signs

- (1) Where—
 - (a) a local authority has made a low emission zone scheme, and
 - (b) a traffic authority has placed, or secured the placement of, a traffic sign on or near a road in connection with the scheme,
 the traffic authority for the road on which a sign has been placed must maintain, or secure the maintenance of, that sign.
- (2) In subsection (1), “traffic sign” has the same meaning as in section 64(1) of the Road Traffic Regulation Act 1984 (general provision as to traffic signs).

Information sharing

23 Power to share information

- (1) A responsible body may, in the circumstances mentioned in subsection (2), disclose relevant information to—
 - (a) another responsible body,
 - (b) the Secretary of State,
 - (c) a source specified in regulations made under section 7(2), or
 - (d) the responsible body’s enforcement agent.
- (2) The circumstances are that disclosure of the relevant information is—
 - (a) necessary to enable the responsible body or enforcement agent to perform a function conferred by virtue of this Part, or
 - (b) otherwise necessary for or in connection with the operation of a low emission zone scheme.
- (3) Where relevant information is disclosed to an enforcement agent—
 - (a) the agent may only use the information, or subsequently disclose it to any other person, as is necessary for or in connection with the enforcement of the low emission zone scheme to which the information relates, and
 - (b) any other person to whom the information is subsequently disclosed may only use it for the same purpose.
- (4) In this section, “relevant information” means—
 - (a) in relation to disclosure under subsection (1)(a), (b) or (c)—
 - (i) the make and model of a vehicle alleged by a local authority (or its enforcement agent) to have driven in the zone to which the scheme relates,
 - (ii) the registration mark of that vehicle (assigned under section 23 of the Vehicle Excise and Registration Act 1994),
 - (iii) the date on which the vehicle is alleged to have driven within the zone to which the scheme relates,
 - (b) in relation to disclosure under subsection (1)(d)—
 - (i) the information mentioned in sub-paragraphs (i) to (iii) of paragraph (a),
 - (ii) the name and address of the registered keeper of the vehicle alleged by a local authority (or its enforcement agent) to have driven in the zone to which the scheme relates,
 - (iii) the time when and location where the vehicle is alleged to have driven within the zone to which the scheme relates,
 - (iv) any record of an alleged contravention of section 6(1) produced by an approved device,
 - (v) any record obtained by virtue of section 7(2) certifying a vehicle’s emission standard,
 - (vi) any information or representations provided to the local authority by or on behalf of the registered keeper of a vehicle in connection with any review or appeal made by virtue of regulations made under section 8(1).
- (5) For the purposes of this section—

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- (a) a “responsible body” is—
 - (i) a local authority operating a low emission zone scheme,
 - (ii) a person (other than the Scottish Ministers) with whom the local authorities who operate a low emission zone scheme have entered into an arrangement in relation to the function of obtaining and sharing any record mentioned in section 7,
 - (iii) the Scottish Ministers,
 - (b) an “enforcement agent” is a person with whom a local authority has entered into arrangements by virtue of—
 - (i) section 7(3), or
 - (ii) regulations made under section 8(1).
- (6) Nothing in this section authorises a disclosure of any information that would be in contravention of the Data Protection Act 2018.

Temporary suspension for events

24 Temporary suspension for events

- (1) A local authority may suspend the operation of a low emission zone scheme for a specified period, in respect of the whole zone or any part of the zone to which the scheme relates, where the authority considers it appropriate to do so for the purposes of an event which—
 - (a) is being held within, or in the vicinity of, the zone to which the scheme relates, and
 - (b) the local authority considers to be of national importance or significant local importance.
- (2) A local authority may not suspend the operation of a low emission zone scheme for more than 7 days unless the Scottish Ministers give prior approval to the proposed suspension.
- (3) This section is without prejudice to a local authority’s ability to specify, by virtue of section 18(2), rules in a low emission zone scheme as to when a zone operates.

Finances and reporting etc.

25 Ministers’ grant-making powers

- (1) The Scottish Ministers may make grants—
 - (a) to a person to meet, or help towards meeting, the person’s costs in making alterations to a vehicle in order to reduce its emissions,
 - (b) to a local authority to meet, or help towards meeting, its costs in—
 - (i) determining whether to make a low emission zone scheme,
 - (ii) making a scheme,
 - (iii) operating a scheme,
 - (iv) revoking a scheme.
- (2) A grant under subsection (1)(a) is subject to such conditions (including as to repayment) as the Scottish Ministers determine.

- (3) A grant under subsection (1)(b) is subject to such conditions as may be agreed between the Scottish Ministers and the local authority.

26 Financial powers etc.

A local authority may—

- (a) incur expenditure in or in connection with determining whether to make, making and operating a low emission zone scheme,
- (b) enter into arrangements (including arrangements for forming or participating in companies) with any person—
 - (i) in connection with the making or operation of a scheme, or
 - (ii) relating to the installation or operation of any equipment used or to be used for or in connection with the operation of a scheme.

27 Application of penalty charges

Any monies received from penalty charges in respect of a low emission zone scheme may be applied by the local authority only for the purposes of—

- (a) facilitating (directly or indirectly) the achievement of the scheme's objectives, and
- (b) if (and only if) any surplus remains, making any repayments required as a condition of a grant under section 25(1)(b).

28 Accounts

- (1) The Scottish Ministers may by regulations make provision for or about the keeping of accounts by local authorities in connection with their functions under this Part.
- (2) Regulations under subsection (1) may, in particular—
 - (a) specify the form of the accounts,
 - (b) require the publication of a statement of account, and specify the manner in which it must be published,
 - (c) make provision about what may, or must, be done jointly where a low emission zone scheme is made jointly.

29 Annual report

- (1) A local authority which is operating a low emission zone scheme during a financial year must, as soon as reasonably practicable after the end of the financial year—
 - (a) prepare an annual report on the operation and effectiveness of the scheme,
 - (b) publish the report in such manner as it considers appropriate,
 - (c) send a copy of the report to the Scottish Ministers, and
 - (d) lay a copy of the report before the Scottish Parliament.
- (2) A report under this section on the operation and effectiveness of the scheme must in particular include an assessment of—
 - (a) the costs of proposing, making and operating the scheme,
 - (b) the gross and net revenue gathered by the authority from the operation of the scheme, and

- (c) details of how the revenue has been used to facilitate the achievement of the scheme's objectives.

Performance of a scheme

30 Direction to carry out a review

- (1) The Scottish Ministers may give a direction to a local authority requiring it to carry out a review of the operation and effectiveness of a low emission zone scheme operated by it.
- (2) Without prejudice to the generality of subsection (1), a local authority may, from time to time, carry out a review of the operation and effectiveness of a low emission zone scheme operated by it.
- (3) A review must include—
 - (a) an assessment of whether the scheme's objectives are being achieved or are likely to be achieved within a reasonable period,
 - (b) an assessment of the ways (if any) in which the scheme's objectives are not being achieved or are not likely to be achieved within a reasonable period,
 - (c) the identification of any areas of the zone to which the scheme relates in which the scheme's objectives are not being achieved or are not likely to be achieved within a reasonable period,
 - (d) such other matters—
 - (i) in the case of a review under subsection (1), as are specified in the direction by the Scottish Ministers, or
 - (ii) in the case of a review under subsection (2), as the local authority considers appropriate.
- (4) On completion of a review, the local authority must—
 - (a) prepare a report of the review's findings, and
 - (b) give a copy of the report to the Scottish Ministers.
- (5) A direction under subsection (1) must—
 - (a) be in writing,
 - (b) be published in such manner as the Scottish Ministers consider appropriate as soon as reasonably practicable after it is given.
- (6) The Scottish Ministers may amend or revoke a direction given under subsection (1).
- (7) Subsection (5) applies to the amendment or revocation of a direction under subsection (1) as it applies to the direction.

31 Action following a review

- (1) After receiving a report under section 30, the Scottish Ministers may give a direction to a local authority requiring it to take such steps as are specified in the direction if the Scottish Ministers consider that—
 - (a) the scheme's objectives are not being achieved, and are not likely to be achieved within a reasonable period,
 - (b) the local authority has failed to discharge any duty imposed on it under or by virtue of this Part,

- (c) the actions, or proposed actions, of the local authority in purported compliance with provision made under or by virtue of this Part are inappropriate in all the circumstances of the case, or
 - (d) developments in science or technology, or material changes in circumstances, have rendered inappropriate the actions or proposed actions of a local authority in pursuance of the provision made under or by virtue of this Part.
- (2) A direction under subsection (1) must—
- (a) be in writing,
 - (b) be published in such manner as the Scottish Ministers consider appropriate as soon as reasonably practicable after it is given.
- (3) The Scottish Ministers may amend or revoke a direction given under subsection (1).
- (4) Subsection (2) applies to the amendment or revocation of a direction under subsection (1) as it applies to the direction.

CHAPTER 4

GENERAL

32 Guidance

- (1) The Scottish Ministers may, following consultation with such persons as they consider appropriate, issue written guidance in relation to the exercise of functions conferred on a local authority (whether as a local authority or as a traffic authority) by virtue of this Part.
- (2) A local authority must have regard to any written guidance given by the Scottish Ministers about the exercise of functions conferred on it (whether as a local authority or as a traffic authority) by virtue of this Part.
- (3) The Scottish Ministers must publish any such guidance in such manner as they consider appropriate as soon as reasonably practicable after it has been given.

33 Interpretation of Part

In this Part—

“approved device” means a device approved under or in accordance with regulations under section 21(1),

“registered address”, in relation to the registered keeper of a vehicle, means the address recorded in the record kept under the Vehicle Excise and Registration Act 1994 in respect of that vehicle as being that person’s address,

“registered keeper”, in relation to a penalty charge payable in connection with a vehicle, means the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994 at the time of the contravention to which the penalty charge relates,

“road” has the meaning given by section 151(1) of the Roads (Scotland) Act 1984,

“traffic authority” has the meaning given by section 121A of the Road Traffic Regulation Act 1984,

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“vehicle” means a motor vehicle within the meaning of section 185(1) of the Road Traffic Act 1988, except that section 189 of that Act (exception for certain pedestrian controlled vehicles and electrically assisted pedal cycles) applies as it applies for the purposes of that Act.