
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 348

ROAD TRAFFIC

The Traffic Regulation Orders (Procedure) (Miscellaneous Amendments) (Scotland) Regulations 2021

Made - - - - *29th September 2021*
Laid before the Scottish
Parliament - - - - *1st October 2021*
Coming into force - - *26th November 2021*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 124 and Part III of schedule 9 of the Road Traffic Regulation Act 1984⁽¹⁾, and all other powers enabling them to do so.

In accordance with section 134(2) of that Act⁽²⁾, the Scottish Ministers have consulted with such representative organisations as they think fit.

Citation and commencement

1. These Regulations may be cited as the Traffic Regulation Orders (Procedure) (Miscellaneous Amendments) (Scotland) Regulations 2021 and come into force on 26 November 2021.

Amendment of the Secretary of State’s Traffic Orders (Procedure) (Scotland) Regulations 1987

2.—(1) The Secretary of State’s Traffic Orders (Procedure) (Scotland) Regulations 1987⁽³⁾ are amended in accordance with this regulation.

- (2) In regulation 4(3), for “regulation 13” substitute “regulations 13 and 16”.
- (3) In regulation 5(3), for “regulations 13 and 14” substitute “regulations 13 to 16”.
- (4) In regulation 6(3), for “regulations 13 and 14” substitute “regulations 13 to 16”.
- (5) In regulation 12(4), for “regulation 13” substitute “regulations 13, 15 and 16”.

(1) 1984 c. 27. There are amendments to section 124 not relevant to these Regulations. Part III of schedule 9 was relevantly amended by paragraph 4(39) of schedule 5 of the Local Government Act 1985 (c. 51), paragraph 80 of schedule 8 and schedule 9 of the New Roads and Street Works Act 1991 (c. 22) and paragraph 16 of schedule 2 of the Scotland Act 2016 (c. 11). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(2) Section 134(2) was relevantly amended by paragraph 12 of schedule 2 of the Scotland Act 2016 (c. 11).

(3) S.I. 1987/2244.

- (6) In regulation 14—
 - (a) in the cross-heading, for “experimental traffic” substitute “reserve power”,
 - (b) omit paragraph 1(a).
- (7) After regulation 14, insert—

“Special provisions for experimental orders

- 15.**—(1) Regulations 5 and 6 do not apply to an order under section 9 of the Act.
- (2) No provision of an order under section 9 of the Act may come into force before the end of the period of 7 days beginning with the day on which a notice of making in relation to the order is published.

Special provisions for orders giving permanent effect to experimental orders

- 16.**—(1) In this regulation—
- “permanent order” means an order under any provision of the Act the sole effect of which is to reproduce and continue in force indefinitely the provisions of a relevant section 9 order, whether or not that relevant section 9 order has been varied by another order under section 9 of the Act, or has been modified or suspended under section 10(2) of the Act⁽⁴⁾,
- “relevant section 9 order”, in relation to a permanent order, means an order the provisions of which are to be reproduced and continued in force indefinitely by that permanent order.
- (2) Regulations 4, 5 and 6 do not apply to a permanent order where—
 - (a) the provisions to be reproduced and continued in force have been in continuous operation for a period of not less than 6 months, and
 - (b) the requirements specified in paragraph (3) have been complied with in relation to each relevant section 9 order.
 - (3) The requirements are that—
 - (a) the notice of making in relation to each relevant section 9 order contained the statements specified in schedule 5,
 - (b) the requirements of these Regulations applicable to each relevant section 9 order have been met,
 - (c) no variation or modification of any relevant section 9 order was made more than 12 months after that order was made, and
 - (d) where any relevant section 9 order has been modified in accordance with section 10(2) of the Act, a statement of the effect of each such modification has been included with the documents deposited in accordance with schedule 3.
 - (4) In the application of regulations 7(2), 8 and 9 and Part III of schedule 1, to a permanent order, the notice of making in relation to each relevant section 9 order is to be treated as the notice of proposals in respect of the permanent order.
 - (5) In the application of regulations 7(2), 8, 9 and 12(1)(b) and Part III of schedule 1 to a permanent order, any objection made in accordance with the statement included by virtue of paragraph (3)(a) in the notice of making in relation to any relevant section 9 order is to be treated as an objection made under regulation 6 to the making of the permanent order.”.
 - (8) In schedule 3—
 - (a) in paragraph 1(d), omit “and if it be” to the end,

(4) Section 10(2) was substituted by paragraph 24 of schedule 8 of the New Roads and Street Works Act 1991 (c. 22).

- (b) omit “and” following paragraph 1(d),
 - (c) after paragraph 1(d), insert—
 - “(da) in the case of an experimental order under section 9 of the Act, a statement setting out the Scottish Ministers’ reasons for proceeding by way of experiment and whether they intend to consider continuing the effect of that order indefinitely by means of another order under the Act,”
 - (d) after paragraph 1(e), insert—
 - “, and
 - (f) where applicable, the documents specified in regulation 16(3)(d).”
 - (e) omit “and” following paragraph 2(b),
 - (f) in paragraph 2(c), after “making the order,” insert “unless it is an order under section 9 of the Act,”
 - (g) after paragraph 2(c) insert—
 - “, and
 - (d) where the notice is a notice of making an order under section 9 of the Act, until the end of the period within which a person may object to the making of an order under the Act for the purpose of reproducing and continuing in force indefinitely the provisions of that section 9 order (see paragraph 2 of schedule 5).”
- (9) After schedule 4, insert—

“SCHEDULE 5

Regulation 16(3)(a)

STATEMENTS FOR INCLUSION IN A NOTICE OF
MAKING RELATING TO AN ORDER UNDER SECTION 9

1. That the Scottish Ministers will be considering in due course whether the provisions of the order should be continued in force indefinitely.
2. That within a period of six months—
 - (a) beginning with the day on which the order comes into force, or
 - (b) if that order is varied by another order under section 9 of the Act or modified under section 10(2) of the Act, beginning with the day on which the variation or modification or the latest variation or modification comes into force,any person may object to the making of the order for the purpose of such indefinite continuation.
3. That any such objection must—
 - (a) be in writing,
 - (b) state the grounds on which it is made, and
 - (c) be sent to an address specified for this purpose in the notice of making.”

Amendment of the Local Authorities’ Traffic Orders (Procedure) (Scotland) Regulations 1999

3.—(1) The Local Authorities’ Traffic Orders (Procedure) (Scotland) Regulations 1999(5) are amended in accordance with this regulation.

- (2) In regulation 2(1), after the definition of “Crown road” insert—

(5) [S.I. 1999/614](#), which has been relevantly amended by [S.S.I. 2008/3](#).

““experimental order” means an order made under section 9 of the Act.”.

- (3) In regulation 4(3), after “regulations 19” insert “, 20B”.
- (4) In regulation 5(2), for “19, 20 and 21” substitute “19, 20A, 20B and 21”.
- (5) In regulation 7(4), for “19, 20 and 21” substitute “19, 20A, 20B and 21”.
- (6) In regulation 8—
 - (a) in paragraph (1)(a)—
 - (i) omit “or” following head (i),
 - (ii) omit head (ii),
 - (b) in paragraph (1)(b)—
 - (i) omit head (ii),
 - (ii) omit “or” following head (ii).
- (7) In regulation 17(2), for “regulation 19” substitute “regulations 19, 20A and 20B”.
- (8) After regulation 19, insert—

“Special provisions for experimental orders

20A.—(1) Regulations 5, 6 and 7 do not apply to an experimental order.

(2) No provision of an experimental order may come into force before the end of the period of 7 days beginning with the day on which a notice of making in relation to the order is published.

Special provisions for orders giving permanent effect to experimental orders

20B.—(1) In this regulation—

“permanent order” means an order under any provision of the Act the sole effect of which is to reproduce and continue in force indefinitely the provisions of a relevant experimental order, whether or not that relevant experimental order has been varied by another experimental order, or has been modified or suspended under section 10(2) of the Act,

“relevant experimental order”, in relation to a permanent order, means an experimental order the provisions of which are to be reproduced and continued in force indefinitely by that permanent order.

- (2) Regulations 4, 5, 6 and 7 do not apply to a permanent order where—
 - (a) the provisions to be reproduced and continued in force have been in continuous operation for a period of not less than 6 months, and
 - (b) the requirements specified in paragraph (3) have been complied with in relation to each relevant experimental order.
- (3) The requirements are that—
 - (a) the notice of making in relation to each relevant experimental order contained the statements specified in schedule 7,
 - (b) the requirements of these Regulations applicable to each relevant experimental order have been met,
 - (c) no variation or modification of any relevant experimental order was made more than 12 months after that order was made, and

- (d) where any relevant experimental order has been modified in accordance with section 10(2) of the Act, a statement of the effect of each such modification has been included with the documents deposited in accordance with schedule 3.
- (4) In the application of regulations 9, 10 and 12 and Part II of schedule 1 to a permanent order the notice of making in relation to each relevant experimental order is to be treated as the notice of proposals in respect of the permanent order.
- (5) In the application of regulations 9, 10, 12 and 17(1)(b) and Part II of schedule 1 to a permanent order, any objection made in accordance with the statement included by virtue of paragraph (3)(a) in the notice of making in relation to any relevant experimental order is to be treated as an objection made under regulation 7 to the making of the permanent order.”.
- (9) Omit regulation 20.
- (10) In schedule 3—
 - (a) in paragraph 1(d), omit “and if it be” to the end,
 - (b) omit “and” following paragraph 1(d),
 - (c) after paragraph 1(d), insert—
 - “(da) in the case of an experimental order, a copy of a statement setting out the authority’s reasons for proceeding by way of experiment and whether they intend to consider continuing the effect of that order indefinitely by means of another order under the Act,”
 - (d) after paragraph 1(e), insert—
 - “, and
 - (f) where applicable, the documents specified in regulation 20B(3)(d).”,
 - (e) omit “and” following paragraph 2(b),
 - (f) in paragraph 2(c), after “making the order,” insert “unless it is an experimental order,”
 - (g) after paragraph 2(c), insert—
 - “, and
 - (d) where the notice is a notice of making an experimental order, until the end of the period within which a person may object to the making of an order under the Act for the purpose of reproducing and continuing in force indefinitely the provisions of that experimental order (see paragraph 2 of schedule 7).”.
- (11) After schedule 6, insert—

“SCHEDULE 7

Regulation 20B(3)(a)

STATEMENTS FOR INCLUSION IN A NOTICE OF
MAKING RELATING TO AN EXPERIMENTAL ORDER

1. That the authority will be considering in due course whether the provisions of the order should be continued in force indefinitely.
2. That within a period of six months—
 - (a) beginning with the day on which the order came into force, or
 - (b) if that order is varied by another experimental order or modified under section 10(2) of the Act, beginning with the day on which the variation or modification or the latest variation or modification came into force,any person may object to the making of the order for the purpose of such indefinite continuation.

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3. That any such objection must—
- (a) be in writing,
 - (b) state the grounds on which it is made, and
 - (c) be sent to an address specified for this purpose in the notice of making.”.

St Andrew’s House,
Edinburgh
29th September 2021

GRAEME DEY
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Secretary of State's Traffic Orders (Procedure) (Scotland) Regulations 1987 ("the 1987 Regulations") and the Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999 ("the 1999 Regulations") in order to simplify the procedure relating to making experimental traffic regulation orders under section 9 of the Road Traffic Regulation Act 1984 ("experimental orders") and to introduce a special procedure for making orders giving permanent effect to certain experimental orders ("permanent orders").

Regulation 2 amends the 1987 Regulations to apply these new procedures to experimental orders and permanent orders made by the Scottish Ministers.

Regulation 2(2) to (6) amends the 1987 Regulations to disapply several procedural requirements relating to experimental orders and permanent orders made by the Scottish Ministers.

Regulation 2(7) inserts a new regulation 15 and regulation 16 into the 1987 Regulations. New regulation 15 provides for a simplified procedure for making an experimental order to the effect that the requirement for publication of proposals before making the order and the ability to make objections to the making of the order do not apply to an experimental order. New regulation 16 introduces a special procedure for making an experimental order permanent. By virtue of this regulation, a permanent order may be made to give permanent effect to an experimental order provided that the experimental order has been in force for at least 6 months, has not been modified more than 12 months after it was made and all other procedural requirements of the 1987 Regulations have been met in respect of it. New regulation 16(3)(a) and (5) and a new schedule 5 allow objections to be made to the making of a permanent order within the period of 6 months from the date on which the corresponding experimental order came into force.

Regulation 2(8) makes consequential amendments to schedule 3 of the 1987 Regulations.

Regulation 2(9) inserts a new schedule 5 into the 1987 Regulations which lays down requirements for information to be included in a notice of making relating to an experimental order.

Regulation 3 amends the 1999 Regulations to apply the new procedures to experimental orders and permanent orders made by local traffic authorities.

Regulation 3(2) inserts a definition of an experimental order.

Regulation 3(3) to (7) amends the 1999 Regulations to disapply several procedural requirements relating to experimental orders and related permanent orders made by local traffic authorities.

Regulation 3(8) inserts a new regulation 20A and regulation 20B into the 1999 Regulations. New regulation 20A provides for a simplified procedure for making an experimental order to the effect that the requirement for publication of proposals before making the order and the ability to make objections to the making of the order do not apply to an experimental order. New regulation 20B introduces a special procedure for making an experimental order permanent. By virtue of that regulation a permanent order may be made to give permanent effect to an experimental order provided that the experimental order has been in force for at least 6 months, has not been modified more than 12 months after it was made and all other procedural requirements of the 1999 Regulations have been met in respect of it. New regulation 20B(3)(a) and (5) and a new schedule 7 allow objections to be made to the making of a permanent order within the period of 6 months from the date on which the corresponding experimental order came into force.

Regulation 3(9) and (10) makes consequential amendments to the 1999 Regulations.

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Regulation 3(11) inserts a new schedule 7 into the 1999 Regulations which lays down requirements for information to be included in a notice of making relating to an experimental order.