
SCOTTISH STATUTORY INSTRUMENTS

2002 No. 292

The Home Zones (Scotland) (No. 2) Regulations 2002

Citation and commencement

1. These Regulations may be cited as the Home Zones (Scotland) (No. 2) Regulations 2002 and shall come into force on 1st July 2002.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Transport (Scotland) Act 2001;

“authority” means the local traffic authority making, or proposing to make, a designation in respect of a road;

“designate” means designate as a home zone under section 74(1) of the Act, and “designated” and “designation” shall be construed accordingly;

“Crown road” and “the appropriate Crown Authority” have the same meanings as in section 131(7) of the Road Traffic Regulation Act 1984(1);

“fire authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(2) or, where the area of the fire authority forms part of a combined area for fire-fighting purposes, the joint board for fire services for that combined area;

“notice of proposals” in relation to a designation, means the notice required to be published under regulation 6;

“Passenger Transport Authority” has the same meaning as in section 9 of the Transport Act 1968(3);

“public passenger transport services” has the same meaning as in section 63(10)(a) of the 1985 Act (4);

“relevant map”, in relation to an designation, means the map required by regulation 13 to be prepared and kept in connection with that designation; and

“restricted road” has the same meaning as in section 82(1)(b) of the Road Traffic Regulation Act 1984(5).

(2) A reference in these Regulations to anything done in writing includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000(6), which has been recorded and is consequently capable of being reproduced.

(1) 1984 c. 27. Section 131(7) was amended by the Roads (Scotland) Act 1984 (c. 54), Schedule 9, paragraph 93(41)(b) and the New Roads and Street Works Act 1991 (c. 22), Schedule 8, paragraph 75.
(2) 1994 c. 39.
(3) 1968 c. 73.
(4) The Transport Act 1985 (c. 67).
(5) The words in section 82(1) were substituted by the New Roads and Street Works Act 1991, section 168(1) and Schedule 8, paragraph 59. The classification or type of road is specified in the Restricted Roads (Classification or Type) (Scotland) Regulations 1985 (S.I.1985/1888).
(6) 2000 c. 7.

Class of road that may be designated

3. An authority may make a designation only in respect of a restricted road.

Preliminary consultation

4.—(1) If an authority proposes to designate any road, it shall carry out a preliminary consultation with those having an interest in land on, adjoining or adjacent to the road it proposes to designate as specified in paragraph (5) in accordance with the following paragraphs.

(2) The authority shall prepare a notice of their intention to designate that road.

(3) Any such notice shall provide details of the road that the authority intend to designate and the proposals that the authority intends to implement in respect of that road.

(4) The authority shall intimate the notice to all persons having an interest in land on, adjoining or adjacent to the road it intends to designate as specified in paragraph (5) and any other organisation or individual that the authority considers is likely to be affected by the proposed designation.

(5) The persons holding an interest in land to whom the authority shall intimate the notice are—

- (a) in the case of lands and heritages entered in the valuation roll at the date of intimation, the persons appearing in the valuation roll in force at the time as being the owners, lessees and occupiers of those lands and heritages; and
- (b) in the case of lands and heritages not entered in the valuation roll at the date of intimation, the owners and occupiers of those lands and heritages.

(6) The notice shall invite any person to whom it is intimated to comment upon the detail of the proposals contained in the notice, and the said person may make written representations to the authority concerning the detail of the proposals contained in the notice within such period as may be specified in the notice, which shall be not less than 28 days from the date on which notice is given.

(7) The authority shall consider any written representations made to it in accordance with paragraph (6), before consulting on its proposals under regulation 5.

Detailed consultation

5.—(1) After considering any written representations made to it in accordance with regulation 4(6), if the authority intends to proceed to designate the relevant road, it shall carry out a consultation in accordance with this regulation.

(2) The authority shall, in any case specified in column (2) of an item in the table below, notify the persons specified in column (3) of the item in writing of its intention to designate the road and provide those persons with details of the proposals that the authority intends to implement in respect of that road, a plan of the area in the vicinity of that road and an explanation of the extent to which the designation will implement the measures for securing the purposes mentioned in section 74(2) of the Act.

TABLE

(1) <i>Item</i>	(2) <i>Case</i>	(3) <i>Consultee</i>
1.	Where the designation appears to the authority to be likely to affect traffic on a road for which another authority is the local traffic authority.	The other authority.

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

(1) <i>Item</i>	(2) <i>Case</i>	(3) <i>Consultee</i>
2.	Where the designation appears to the authority to be likely to affect traffic on a Crown road.	The appropriate Crown authority.
3.	Where the designation appears to the authority to be likely to affect traffic on a road on which public passenger transport services are provided.	The operator of the service and the appropriate Passenger Transport Authority.
4.	All cases	(a) (a) The chief constable of any police force for the police area in which any road to be designated is situated. (b) any person with an interest in land on, adjoining or adjacent to the road to be designated of the kind described in regulation 4(4). (c) The Road Haulage Association. (d) The Freight Transport Association. (e) Such other organisations (if any) representing persons or individuals likely to be affected by any provision in the designation as the authority thinks appropriate. (f) The chief officer of the Scottish Ambulance Service. (g) The fire authority.

(3) Any person notified of the authority's proposals under paragraph (2) may make written representations to the authority on the measures contained in the proposed designation.

(4) Any representations made under paragraph (3) shall be submitted to the authority within 3 months of the date on which the authority notified the relevant person in accordance with paragraph (2).

- (5) Before publishing its proposals in accordance with regulation 6, the authority shall—
- (a) consider any representations made under paragraph (3); and
 - (b) prepare and publish a report detailing the persons notified under paragraph (2), any representations made under paragraph (3) and the extent to which the authority will vary its proposals to take account of any representations so made.
- (6) A copy of any report published under paragraph (5)(b) shall be—
- (a) available for inspection at the authority’s offices and any local library during normal office hours;
 - (b) if the authority considers it appropriate, available for inspection at such other places within the authority’s area and during such times respectively at those places as the authority may determine;
 - (c) sent to any person who has made representations under paragraph (3).

Publication of proposals

6. After complying with the requirements in regulation 5, the authority shall—
- (a) publish at least once in a local newspaper circulating in the area in which any road to which the designation relates is situated a notice of proposals containing the particulars specified in Part I of Schedule 1;
 - (b) send a copy of the notice of proposals containing the particulars specified in Part I of Schedule 1 to each person whom it was required to consult under regulation 5;
 - (c) take such other steps as it may consider appropriate for ensuring that adequate publicity about the designation is given to persons likely to be affected by its provisions and, without prejudice to the generality of this sub-paragraph, such other steps may include—
 - (i) publication of a notice in the Edinburgh Gazette;
 - (ii) the display of notices in accordance with Schedule 2 in roads or other places affected by the designation; or
 - (iii) the delivery of notices or letters to all residents, residents associations and premises, appearing to the authority to be likely to be affected by any provision in the designation;
 - (d) make available for inspection in accordance with Schedule 3 the documents mentioned in that Schedule.

Objections

7.—(1) Before the end of the objection period mentioned in paragraph (3), any person may object to the making of the designation (any person making any such objection being hereinafter referred to as an “objector”).

(2) Any objection made under paragraph (1) shall contain a written statement of the grounds of the objection and shall be sent to the address specified in the notice of proposals published in accordance with regulation 6(a).

(3) The objection period shall be such period of not less than 42 days from the date on which the relevant notice of proposals is published under regulation 6(a) as may be specified in that notice.

(4) If no objections have been made by the end of the objection period, or any objections made have been withdrawn by that date, the authority may proceed to make the designation of the relevant road.

Hearing

8.—(1) Before designating any road the authority shall hold a hearing in connection with that designation where an objection has been made under regulation 7 and not withdrawn.

(2) Any hearing shall be conducted by an independent person (hereinafter referred to as “the reporter”) appointed by the authority from a list of persons compiled by the Scottish Ministers for that purpose.

(3) The date of the hearing shall not be earlier than 28 days after the publication of the notice referred to in regulation 9(1).

Notice of hearing

9.—(1) Where a hearing is to be held, not earlier than the expiry of the objection period referred to in regulation 7(3), the authority shall publish at least once in a local newspaper circulating in the area in which any road to which the designation relates is situated a notice of the hearing containing the particulars specified in Part II of Schedule 1.

(2) Where a hearing is to be held the authority shall forthwith give notice in writing to any objector informing that objector that—

- (a) if within such period, being not less than 14 days, as is specified in the notice, intimation is given to the authority that the objector desires to be heard in support of the objection, an opportunity will be afforded of being heard;
- (b) the objector may submit written representations in support of the objection as an alternative to being heard at the hearing and that any such written representations should be submitted prior to the date set for the hearing; and
- (c) if the objector does not intimate that the objector wishes to be heard in support of the objection or submit written representations prior to the date set for the hearing, then the objection will be deemed to be withdrawn unless the objector confirms in writing that the objector wishes the objection to be maintained.

(3) If any objector given such notice intimates a desire to be heard the authority shall notify the objector in writing of the arrangements for the hearing not less than 14 days before the date on which the hearing is to take place.

(4) If any objector does not timeously—

- (a) give such intimation as is referred to in paragraph 2(a);
- (b) submit such written representations as are referred to in paragraph 2(b); or
- (c) give confirmation in writing that the objection is to be maintained as referred to in paragraph 2(c),

then the objection made by that objector shall be deemed to be withdrawn.

(5) If at any time prior to the date set for the hearing, as a result of any objection being deemed to be withdrawn in accordance with paragraph (4), all objections have been withdrawn or are deemed to have been withdrawn, the authority may cancel the hearing and proceed to make the designation without any hearing taking place.

Procedure at hearing

10.—(1) Subject to the following paragraphs of this regulation, the procedure at the hearing shall be determined by the reporter.

(2) The hearing shall be held in public.

(3) The reporter may allow an objector or person interested in the subject matter of the hearing to be heard in person or be represented by an authorised representative.

(4) The reporter shall consider any written representations submitted by any objector or any other person interested in the subject matter of the hearing.

(5) If all objectors submit written representations to the hearing, and no objector has intimated a desire to be heard in support of their objections, then the reporter may require the authority to submit representations in writing in place of holding a hearing.

(6) The reporter may refuse to hear any person, or allow to be put forward for consideration at the hearing any representations made by any person, if the reporter is satisfied that such representations are frivolous or vexatious or that such views have already been adequately stated by some other person at the hearing.

(7) If any objector who has intimated a desire to be heard at the hearing fails to attend the hearing, the objection made by that objector may be deemed to be withdrawn.

(8) If at any time, whether as a result of any objection being deemed to be withdrawn in accordance with paragraph (7) or otherwise, all objections to a designation have been withdrawn or are deemed to have been withdrawn, then the reporter shall abandon the hearing forthwith notify the authority in writing that all objections have been withdrawn and the authority may proceed to make the designation without any further hearing taking place.

Consideration of objections and report

11.—(1) At the conclusion of the hearing, or following receipt of all written representations where a hearing is not required by virtue of regulation 10(5), the reporter shall prepare a report and may make recommendations.

(2) On receipt of the reporter's report, the authority shall, prior to submitting the designation to the Scottish Ministers for confirmation under regulation 12, either—

- (a) vary the proposed designation so as to implement the recommendations contained in any report prepared by the reporter in accordance with paragraph (1); or
- (b) in so far as the authority is unable or unwilling to implement any of those recommendations, the authority shall prepare a report for the Scottish Ministers explaining why the said recommendations will not be implemented.

Confirmation by the Scottish Ministers

12.—(1) In any case where a report has been produced by the reporter in accordance with regulation 11(1), no designation shall be made by the authority unless the Scottish Ministers confirm that such a designation may be made.

(2) In considering whether or not to confirm that the authority may make the designation the Scottish Ministers shall take account of—

- (a) the report prepared by the reporter in accordance with regulation 11(1), and
- (b) any report prepared by the authority under regulation 11(2)(b).

The relevant map

13. The authority shall prepare and keep in connection with the designation for so long as the designation remains in force a map in accordance with the requirements set out in Schedule 4.

Notice of making the designation

14. When the authority has made the designation it shall—

- (a) forthwith give notice in writing of the making of the designation to the chief constable of the police area in which any road to which the designation relates is situated;

- (b) notify in writing each objector whose objection was not withdrawn, of the authority's reasons for making the designation in spite of the objection;
- (c) within 14 days of the making of the designation publish once in a local newspaper circulating in the area in which any road to which the designation relates is situated a notice of the making of the designation containing the particulars specified in Part III of Schedule 1;
- (d) if considered necessary by the authority, within the same period publish a similar notice in the Edinburgh Gazette; and
- (e) comply with the relevant requirements of Schedule 3 as to the availability of documents for inspection.

Varying and revoking designations

15.—(1) At any time after making a designation the authority may vary or revoke the designation so made.

- (2) When varying or revoking any designation the authority shall—
 - (a) comply with the requirements set out in regulations 4 to 12 and 14 as though the references to making the designation were references to varying or revoking the designation; and
 - (b) in any case where the authority is varying the designation, vary the map prepared in accordance with regulation 13 in accordance with the requirements set out in Schedule 4 to take account of the variation to the designation.

Reports on the designation

16.—(1) The authority shall prepare and publish a report under section 74(3) of the Act within 12 months of the date on which the designation was made.

(2) Where the measures to be implemented for securing the purpose or purposes for which the designation was made have not been completed within 12 months the authority shall, in addition to preparing and publishing a report under paragraph (1), prepare and publish further reports under section 74(3) of the Act, at intervals of not more than 12 months until the said measures have been completed.

Revocation

17. The Home Zones (Scotland) Regulations 2002(7) are hereby revoked.

St Andrew's House,
Edinburgh
10th June 2002

LEWIS MacDONALD
Authorised to sign by the Scottish Ministers