

1976 No. 63 (S.4)

ROADS AND BRIDGES, SCOTLAND

**The Stopping Up of Roads and Private Accesses (Procedure)
(Scotland) Regulations 1976**

Made - - - - 14th January 1976

Laid before Parliament 28th January 1976

Coming into Operation 18th February 1976

In exercise of the powers conferred on me by sections 12 and 13 of the Roads (Scotland) Act 1970(a), and of all other powers enabling me in that behalf, I hereby make the following regulations:—

PART I
GENERAL

Citation and commencement

1. These regulations may be cited as the Stopping Up of Roads and Private Accesses (Procedure) (Scotland) Regulations 1976 and shall come into operation on 18th February 1976.

Interpretation

2. In these regulations unless the context otherwise requires, the following expressions have the meaning hereby respectively assigned to them:—

“the Act” means the Roads (Scotland) Act 1970;

“highway authority” means, in relation to a highway other than a trunk road, a regional or islands council and, in relation to a trunk road, the Secretary of State;

“local highway authority” means a highway authority other than the Secretary of State;

“local authority” means a regional or islands council;

“owner” in relation to premises means the person for the time being entitled to receive, or who would, if the same were let, be entitled to receive, the rents of the premises, and includes a trustee, factor, tutor or curator; and in the case of public or municipal property applies to the persons to whom the management thereof is entrusted;

“occupier” means the person in occupation or having the charge, management or control of premises, either on his own account or as the agent of another person.

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

(a) 1970 c. 20.

(b) 1889 c. 63.

PART II

FORM AND CONTENT OF ORDERS

Orders under section 12

4. An order made by a highway authority under section 12 of the Act (which provides for the stopping up of roads) shall be in the Form A set out in the Schedule hereto, or a form substantially to the like effect.

5. The plan accompanying an order made under section 12 shall be to a scale of not less than 1/2500, showing in zebra hatching the road to be closed. Any means of passage to be reserved to pedestrians shall be outlined and marked "footpath".

Orders under section 13

6. An order made by a highway authority under section 13 of the Act (which provides for the stopping up of accesses from a highway to premises) shall be in Form B set out in the Schedule hereto, or a form substantially to the like effect.

7. The plan accompanying an order under section 13 shall be to a scale of not less than 1/2500 showing:—

- (a) in solid black the access to be closed up;
- (b) by a thin diagonal hatching any new means of access to be provided; and
- (c) outlined and marked "footpath" any means of access for pedestrians which is to be reserved.

The plan shall indicate the proposed method of closing the access.

PART III

PROCEDURE FOR THE MAKING AND APPROVAL OF ORDERS

Publication of notice

8. Where a highway authority proposes to make an order under section 12 or section 13 of the Act, the authority shall publish in each of two successive weeks in at least one newspaper circulating in the area in which the road or private access to which the order relates is situated and in the Edinburgh Gazette a notice in the Form C set out in the Schedule hereto or a form substantially to the like effect.

9. Not later than the date on which the notice under regulation 8 is first published the highway authority shall serve a copy thereof together with a copy of the draft order and of any relevant map or plan and of a statement of the reasons for making the order:—

- (a) on every local authority in whose areas any road or private access to which the order relates is situated, on the district planning authority, and on any other highway authority affected;
- (b) where the order relates to a private access, on the owner and occupier of any premises to which the order relates and on the owner and occupier of any land which it is proposed to acquire for the provision of a new means of access;

- (c) where the order relates to a road to be stopped up under the order, on any statutory undertakers having apparatus under, in, on, over, along or across the said road; and
- (d) where the order is made by a local highway authority, on the Secretary of State.

10. Not later than the date on which the said notice is published as aforesaid the highway authority shall cause a copy thereof to be displayed in a prominent position at or near the ends of so much of any road as it is proposed to stop up, and shall keep it exhibited in such a position and in a legible condition for a period of not less than 28 days.

Objections

11. Any person desiring to object to a proposal to make an order shall send to the Secretary of State within the period and to the address specified in the notice of proposal published as required by regulation 8 above, a written statement of his objections and of the grounds thereof.

12. In the case of a proposal made by a local highway authority, the Secretary of State shall, on receipt of any objection, send a copy to the local highway authority who shall send to the objector any comments they may wish to make relevant to the objection and shall inform the Secretary of State accordingly.

13. The Secretary of State may at any time require a local highway authority to furnish him with any further information which appears to him to be relevant.

Public inquiries

14. If in any case objections are made and are not withdrawn the Secretary of State may before taking a decision cause a public local inquiry to be held:

Provided that except where an objection is made by any local authority, owner or occupier or statutory undertaker on whom a notice is required to be served under regulation 9 the Secretary of State may dispense with such an inquiry if he is satisfied that in the circumstances of the case the holding of such an inquiry is unnecessary.

15. In relation to any inquiry under regulation 14 the provisions of subsections (2), (3), and (8) of section 210 of the Local Government (Scotland) Act 1973(a) shall apply as they apply in relation to local inquiries under that section.

Confirmation of order

16. After considering any objections to the order which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry, the Secretary of State may confirm the order either without modification or subject to such modification as he thinks fit or may decide not to confirm it.

(a) 1973 c. 65.

17. In any case where no objections are made to a proposal by a highway authority the highway authority which has published the proposal shall confirm the order:

Provided that a local highway authority before so doing shall satisfy themselves that no objection to the making of the order has been received by the Secretary of State or that any such objection has been withdrawn.

PART IV

DECISION

Notice of making, confirmation of or refusal to confirm orders

18. Immediately after an order has been made or confirmed, the highway authority shall publish in the manner prescribed by regulation 8, a notice in the Form D or E set out in the Schedule hereto, or a form substantially to the like effect and regulations 9 and 10 above shall apply to any such notice as they apply to the notice required to be published by the said regulation 8.

19. In any case where the Secretary of State decides not to confirm an order he shall notify the local highway authority accordingly. On receipt of such notification the local highway authority shall publish in the manner prescribed by regulation 8, a notice in the Form F set out in the Schedule hereto, or a form substantially to the like effect and regulations 9 and 10 above shall apply to any such notices as they apply to the notice required to be published by the said regulation 8.

Date of operation

20. An order to which these regulations apply shall become operative on the date on which the notice required by regulation 18 is first published or on such later date, if any, as may be specified in the order:

Provided that a private means of access shall not be stopped-up before the expiry of 6 weeks from the date of the first public notification of the order under regulation 8 and in a case where a new means of access is to be provided by the highway authority, before it has been so provided.

William Ross

New St. Andrew's House,
Edinburgh.
14th January 1976.

One of Her Majesty's Principal
Secretaries of State.

SCHEDULE

Form B

Form of order stopping up a private access

ROADS (SCOTLAND) ACT 1970

The [*name of council*] [*name of highway*] (Stopping Up of Access) Order 19

Whereas the [*name of highway authority*] consider the private means of access from the [*name of highway*] specified in the Schedule to this order is likely to *[cause danger to] [interfere unreasonably with] traffic on the highway and are satisfied that *[a reasonably convenient alternative means of access is available] [no alternative means of access is necessary] [in a case where they are satisfied that an alternative means of access is necessary but that a reasonably convenient alternative means of access is not available they are capable of providing a new means of access] in exercise of the powers conferred on them by section 13 of the Roads (Scotland) Act 1970 and of all other powers enabling them in that behalf, hereby make the following order:—

- (1) This order may be cited as the [*as in the heading*].
- (2) The Interpretation Act 1889 shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.
- (3) The stopping up of the private access to [*name of highway*] specified in the Schedule to this order is hereby ordered [subject to the reservation of the means of passage for pedestrians specified in that Schedule]. [The [*name of highway authority*] shall provide the new means of access specified in the Schedule].

Given under the seal of the [*name of highway authority*] on

19

Signature

SCHEDULE

PRIVATE ACCESS TO BE STOPPED UP

(Description of access together with a description of any means of passage reserved for pedestrians and any new access proposed by the highway authority all sufficient for identification with reference to a plan accompanying the order. The plan should be signed and sealed and identified by a heading embodying the title to the order).

**Delete where inapplicable.*

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Sections 12 and 13 of the Roads (Scotland) Act 1970 authorise highway authorities by order to stop-up roads which are considered unnecessary or dangerous to the public, and private means of accesses from highways which are likely to cause danger to, or interfere unreasonably with, traffic on the highways. These regulations prescribe the procedure to be followed in connection with the making of orders under sections 12 and 13.

Part II specifies the form and content of the orders and Part III lays down the procedure for making and confirming orders and provides for public and private notification, objections, inquiries and confirmation.

Part IV makes provision as to the date of operation of orders under the said sections 12 and 13.

SI 1976/63
ISBN 0-11-060063-0

