



**TRANSPORT
SCOTLAND**
CÒMHDHAIL ALBA

Scotland's Pavement Parking Prohibitions

**Consultation on Pre-
Implementation Directions and
Regulations for Local
Authorities**

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MINISTERIAL FOREWORD FROM THE MINISTER FOR TRANSPORT, GRAEME DAY MSP



The Scottish Government has been working to improve parking legislation in Scotland in order to tackle the impact of inconsiderate and obstructive parking and ensure that our roads and pavements are accessible for all.

As part of this work, The Transport (Scotland) Act 2019 bans pavement parking, double parking and parking at dropped kerbs, and gives local authorities the relevant powers to enforce these new provisions. The Act also gives local authorities the power to exempt footways from the pavement parking prohibition in certain circumstances and in accordance with Ministerial directions.

To support these provisions we are developing a suite of secondary legislation necessary to bring new legislation into force. These give local authorities the tools they need to be able to tackle the issues of inconsiderate and obstructive parking which, alongside a planned Government lead media campaign, will highlight the problems that inconsiderate parking creates in our everyday lives.

Consultation is a key part of this work, allowing us to ensure that the Regulations that underpin these provisions are developed with consistency, transparency and scrutiny embedded within the process.

We would strongly encourage everyone with an interest in the parking prohibitions to respond to this consultation and provide views on our proposals.

Responding to this consultation

About this consultation

Consultation is an essential part of the policy making process. It gives us the opportunity to seek your opinions. This consultation details issues under consideration and asks you questions about what we are proposing.

Responses will be analysed and used as part of the policy making process, along with a range of other available information and evidence. Responses to this consultation will help to inform the secondary legislation required to bring the parking provisions contained within the Transport (Scotland) Act 2019 into force.

How to respond

To encourage wide participation, the Scottish Government has created a number of ways for you to engage with this consultation. You can respond online, by email or by post.

Details on how you can do this are highlighted in the following table.

(Note - The consultation will also be available in alternative formats on request, including Large Print, Braille and Easy Read.)

Table of response methods

Online	<p>You can use the response form on the Scottish Government's consultation hub, Citizen Space at:</p> <p>Please complete the Respondent Information Form. (Annex A).</p>	<p>You can save and return to your response at any time while the consultation is open. Please ensure that your response is submitted before the consultation closes at midnight on 11 March 2022.</p> <p>You will automatically be emailed a copy of your response after you submit it. If you choose this method, you will be directed to complete the Respondent Information Form, which lets us know how you wish your response to be handled and whether you are</p>
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		happy for it to be made public.
Email	<p>Send us your response in an email to:</p> <p>roadpolicy@transport.gov.scot</p> <p>Please include a completed Respondent Information Form (Annex A).</p>	
Post	<p>Send your response to:</p> <p>Pre-Implementation Directions and Regulations Consultation Road Policy Team Transport Scotland 4th Floor Buchanan House 58 Port Dundas Road Glasgow G4 0HF</p> <p>Please include a completed Respondent Information Form (Annex A).</p>	

Deadline

The deadline for responses is 11 March 2022.

Need assistance?

If you need support in answering this consultation or have a query about the consultation process you can send your query to: roadpolicy@transport.gov.scot.

or in writing to :

Pre-Implementation Directions and Regulations Consultation
Road Policy Team
Transport Scotland 4th Floor Buchanan House
58 Port Dundas Road
Glasgow
G4 0HF

Next Steps

After the consultation has closed we will analyse all of the responses received and use your feedback to help develop the secondary legislation that will underpin the pavement parking prohibitions. After the consultation period closes we will publish responses at <https://consult.gov.scot>, where we have been given permission to do so.

The responses to the consultation and analysis will be published in due course.

Setting the scene

Introduction

The Scottish Government recognises the detrimental impact that obstructive and irresponsible parking can have on vulnerable groups, as well as emergency vehicles and other road users in general. In accordance with the powers devolved by section 40 of the Scotland Act 2016, the Scottish Ministers are now able to legislate on parking matters.

Since 2017, the Scottish Government has engaged with numerous stakeholders on the development of parking prohibitions, with the '*Improving Parking in Scotland*' consultation being published in 2017 (https://consult.gov.scot/road-policy/improving-parking-in-scotland/user_uploads/695337_v8_20170605.pdf). Feedback obtained from this consultation is available at the following link:

<https://www.transport.gov.scot/media/42239/improving-parking-in-scotland-may-2018.pdf>.

The Transport (Scotland) Act 2019 ('the Act') introduces new national provisions, prohibiting pavement parking, double parking and parking at dropped kerbs. The Transport (Scotland) Act 2019 can be viewed at the following link:

<https://www.legislation.gov.uk/asp/2019/17/contents/enacted>.

A suite of secondary legislation is required for the pavement parking prohibition to work in practice and give local authorities the power to implement and enforce the prohibitions. Prior to the pavement parking provisions coming into force under the Act, local authorities will be required to assess their footways for the purposes of determining which, if any, may be appropriate to be exempt from the pavement parking prohibition. Local authorities will be required to consider their obligations under the Equality Act 2010 throughout this determination process and prior to an Exemption Order being proposed. Ministerial Directions and Pre-Implementation Guidance will be published to assist local authorities in undertaking this determination process.

Purpose of this consultation

This is one of a number of consultations that will be required to address specific areas of the Act in order to obtain vital feedback on how Regulations should be shaped. This consultation focuses on the work that needs to be undertaken in advance of the pavement parking prohibition being brought into force. This consultation will consider matters including the type of streets and pavements that can have an exemption from the national pavement parking prohibition and the procedures that must be followed to allow for such an exemption.

The purpose of this consultation is to set out the proposed arrangements and options relating to the exemption orders process which will be formalised in Regulations and supplemented through accompanying Guidance.

The consultation paper will also invite views from stakeholders and interested parties on proposals for the procedures that local authorities will be obliged to follow if they wish to exempt an area of the footway from the national pavement parking prohibition.

In seeking views on the proposal to introduce Ministerial Directions and Local Authority Exemption Order Regulations, the background for each is laid out under separate headings.

The first part of the consultation, under the heading Ministerial Directions, seeks views on the Directions that will be issued to local authorities, directing them to assess any footway that may be considered for an exemption.

The second part of the consultation, under the heading Local Authority Exemption Order Regulations, seeks views on the content and processing model to be contained in the Regulations.

We hope that members of the public respond to this consultation where possible. We appreciate that some of the consultation questions are technical in nature (or apply to duties applicable to local authorities) but their application to potential street exemptions could have a direct impact on numerous individuals. As such, we would encourage everyone to respond to any or all of those areas where you feel you have a contribution to make.

Ministerial Directions

Introduction

The Scottish Government is seeking views on the Ministerial Directions that will be issued to all Scottish local authorities with regards to actions that must be taken in advance of the pavement parking prohibition being enforced. These Directions will enable local authorities to exercise their functions and determine which footways, if any, are appropriate to be exempt from the pavement parking prohibition.

The proposed Directions will set out the mandatory aspects of the parking prohibitions regime that must be carried out by local authorities.

The purpose of the Directions is to specify the assessments that are required to be carried out in connection with making exemption orders, and also the road characteristics that will be required to be identified prior to making an exemption order.

The Directions can be amended at any stage by the Scottish Ministers if required.

Further Directions in regards to the types of uniforms to be worn by parking attendants and information required to be published by local authorities as part of the exemption order process will be set out at a later date.

Road Assessment Considerations

Section 67(1) and (2) of the Act provide that the Scottish Ministers may direct local authorities to undertake specific assessments when exercising their functions in connection with the making of exemption orders:

67 Ministerial Directions

(1) The Scottish Ministers may direct local authorities in connection with the exercise of their functions under this Part.

(2) A direction under subsection (1) may, in particular—

(a) specify assessments to be carried out in connection with the making of exemption orders...

The Directions will include the requirement to conduct road assessments with a view to identifying any potential exemptions in line with a set of defined characteristics. Local authorities are not compelled to conduct assessments of all roads but rather of any they are considering for an exemption.

Road Characteristics

Section 51 of the Act states that a local authority may make an Exemption Order providing that the pavement parking prohibition does not apply to a particular footway within the local authority's area which is specified in the order. Section 51 will be brought into force through commencement regulations in 2022.

Section 51(2) states that:

(2) A footway may not be specified in an exemption order unless it, or the carriageway with which it is associated, has the characteristics specified by the Scottish Ministers in a direction under section 67(1).

Directions by the Scottish Ministers will therefore specify the characteristics that a footway, or the carriageway with which it is associated, must have to allow a local authority to decide which footways may be appropriate to exempt from the national pavement parking prohibition.

To be considered for an exemption order, a footway, or the carriageway with which it is associated, must have the following characteristics.

Either;

- (a) the footway is of sufficient width to enable 1.5 metres (down to an absolute minimum of 1.2 metres over a short distance to take account of street furniture) to be available for the passage of non-vehicular traffic (including pedestrians, wheelchair users and mobility scooters) when a vehicle is parked on the footway,

Or:

- (b) the carriageway associated with a footway is of sufficient restricted width or access that it would be rendered unpassable by emergency vehicles when one or more vehicles are parked on the carriageway, but would be possible to access if vehicles were permitted to park on the footway.

Point (a) would allow a local authority to consider an exemption order for an area of the footway where there is deemed to be sufficient space to maintain non-vehicular traffic flow whilst still allowing space for vehicles to park safely on the footway. Point (b) would allow a local authority to exempt an area of footway from the prohibition to allow safe passage of emergency vehicles on a carriageway.

Question 1: Do you agree or disagree with the proposed road characteristics that would allow local authorities to consider an exemption order from the pavement parking prohibition? Please be as specific as possible in your reasoning.

Local Authority Exemption Order Regulations

Introduction

Section 52 of the Transport (Scotland) Act 2019 allows for the Scottish Ministers to make provisions in connection with the making, amendment and revocation of exemption orders. These provisions are to be formally set out in the secondary legislation we are now considering. Section 52 states:

52 Exemption orders: form and procedure

(1) The Scottish Ministers may by regulations make provision in connection with the making, amendment and revocation of exemption orders.

(2) Regulations under subsection (1) may, in particular, make provision about—

- (a) the form of an exemption order (or an order amending or revoking an exemption order),*
- (b) the procedure to be followed in connection with the making, amendment or revocation of an exemption order,*
- (c) publication of a proposal for the making, amendment or revocation of an exemption order (a “proposal”),*
- (d) persons who must be consulted about a proposal and the manner and timing of that consultation,*
- (e) the process for making objections to a proposal,*
- (f) the process for considering any such objections, including the holding of inquiries and the appointment of a person to hold an inquiry,*
- (g) modification of a proposal (whether in consequence of an objection or otherwise),*
- (h) notice to be given or published of the making, amendment or revocation of an exemption order and the effect of the exemption order (or its amendment or revocation).*

The Regulations referred to in section 52(2) will set out the defined set of procedures a local authority must follow if they wish to exempt a footway from the national pavement parking prohibition.

The pavement parking prohibition is a national ban on pavement parking which has already been legislated for and therefore any exemptions to this prohibition must be carefully developed and considered within that context.

The existing Traffic Regulation Order (TRO) procedures, which determine how local authorities should make, amend or revoke a TRO, are helpful to consider in this context for the purposes of comparison. The TRO procedures may be transferable in the context of Exemption Orders, however there have historically been issues raised by local authorities regarding some aspects of this system, including advertising costs and the two separate consultation periods that are required.

Additionally and for comparison purposes, there has been a general ban on parking on the pavement in London since 1974, consideration of which may be relevant in the context of the Exemption Order process. Exemptions from the pavement parking ban in London do not require the use of TROs, instead a more informal process is followed whereby a resolution of the Council is required, together with a consultation process (generally more informal than that required during the TRO process), in which a series of exemptions in a particular street or streets are proposed and residents' views sought. The limitation of this approach is that there is no central set of regulations that a London Borough must follow, this can lead to vastly different approaches being taken and a lack of consistency in terms of when pavement parking is permitted and prohibited.

Current Powers

TROs may be made by local authorities in respect of a road for the purposes of avoiding danger to persons or other traffic using the road or for preventing the likelihood of any such danger arising, for facilitating the passage on the road of any class of traffic (including pedestrians), for preventing the use of the road by vehicular traffic of a kind which is unsuitable having regard to the existing character of the road or adjoining property, among other related purposes.

Local authorities have existing powers under parts 1 and 2 of the Road Traffic Regulation Act 1984, which enables them to introduce TROs, the process for which is set out in The Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999 ('the 1999 Regulations'). These existing Regulations do not cover exempting areas of the footway from the pavement parking prohibitions and, as such the ways in which such powers may be exercised by local authorities require to be laid out in a new exemption orders process.

For the purposes of comparison, and as the TRO process may be a helpful point of reference when considering how to develop the process for considering and making pavement parking exemption orders, the following bullet points outline the standard process followed by local authorities when making a TRO (this process can take between 12 and 18 months to complete).

The following bullet points represent the steps normally taken by a local authority when introducing a TRO, including requirements stipulated in the 1999 Regulations:

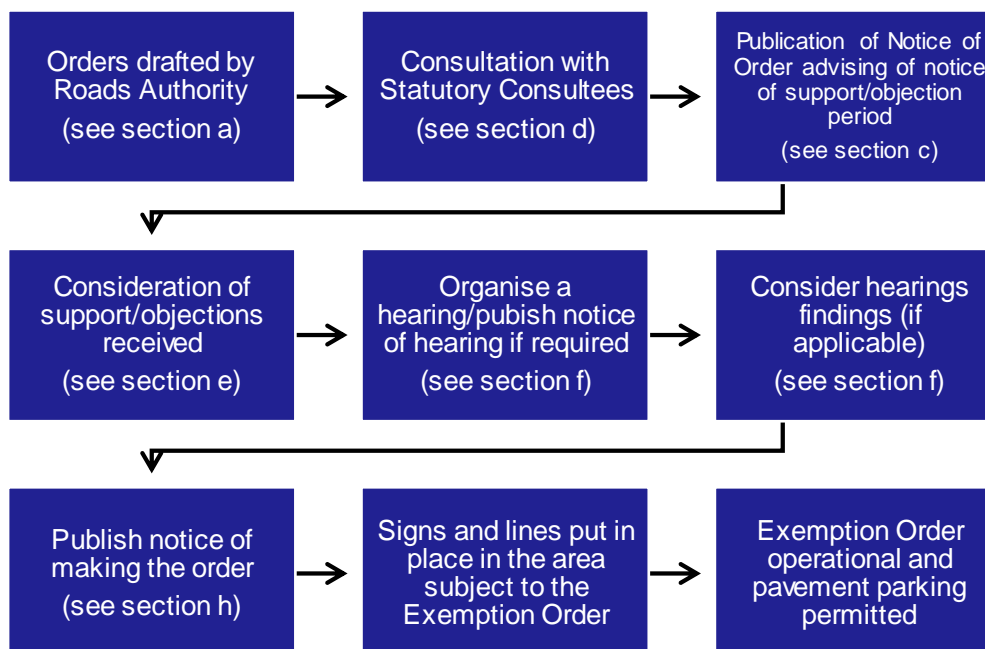
- Feasibility and priority assessment undertaken by the local authority's roads department,
- Proposed scheme design considered,
- Preparation undertaken internally by the local authority's roads department in advance of following the statutory processes set out in the 1999 Regulations,
- Consultation with appropriate statutory consultees, including those listed in regulation 4 of the 1999 Regulations,
- Consideration of all comments received from statutory consultees and, if necessary, amendments made to the proposal,

- Publication of proposals for the purposes of public consultation, in accordance regulation 5 (the objection period, in which any person may object to the marking of the order, is a period of not less than 21 days between the date on which a notice is published under regulation 5 and the date specified in that notice as the date by which any objection must be made),
- Consideration of any objections made during the objections period, and efforts made by the local authority's roads department to resolve these,
- Where an objection made by a person in accordance with regulation 7 is not withdrawn, the local authority will then arrange for a hearing to take place when the provisions of regulation 8 of the 1999 Regulations apply,
- Notice of the hearing is issued by the local authority in accordance with regulation 9,
- Consideration is given by the local authority to all objections made in accordance with regulation 7 that are not withdrawn, or, where a hearing has taken place, the report and recommendation made by the reporter,
- The local authority may make modifications to the order if necessary and where appropriate in accordance with regulation 13,
- Consent may be sought from the Secretary of State, when required and in accordance with regulation 11,
- Making of the TRO by the local authority in accordance with regulations 15 and 16,
- Notice of making the order is given by the local authority in accordance with regulation 17,
- Implementation of the TRO is undertaken by the local authority, making physical changes on site as required.

Exemption Order: Proposed provisions under section 52(2)(a) to (h) of the Act

To date the Scottish Ministers have provided a requested £2.4 million in funding to local authorities to support their assessment of streets for the purposes of considering which, if any, they may wish to exempt from the national pavement parking prohibition.

Once a need has been established the local authority will be required to follow a procedure as laid down in secondary legislation before pavement parking is permitted. Our proposals are set out in the flow chart below and are further detailed under the following headings a-h:



(a) Form of an exemption order

For comparison purposes, local authorities can use TROs to apply local restrictions, which are enforceable when the appropriate road signs or markings are displayed. The restrictions contained in such an order can be applied for various reasons and could cover particular hotspots or larger areas. They can have effect at all times or during specific periods, and certain classes of traffic may be exempt from the TRO. The effect of the TRO is dependent on the wording of the TRO being promoted by the local authority.

It is proposed that the Exemption Order should follow a similar format to the way in which TROs are drafted, presented and published. An example of a TRO is shown below and can also be found on the Tell Me Scotland website at: <https://www.tellmesotland.gov.uk/notices/moray/traffic/00000244851>.

MORAY COUNCIL

ROAD TRAFFIC REGULATION ACT 1984, AS AMENDED

**MORAY COUNCIL (BLANTYRE PLACE, BRACO PLACE, FORTEATH STREET AND
HAWTHORN ROAD, ELGIN – PROHIBITION OF WAITING) ORDER 2021**

Moray Council in exercise of its powers conferred upon it by the Road Traffic Regulation Act, 1984, as amended and all other enabling powers, and after consultation with the Chief Constable in accordance with Part III of Schedule 9 to the 1984 Act, hereby makes the following order:-

GENERAL

1. This order may be cited as " Moray Council (Blantyre Place, Braco Place, Forteath Street and Hawthorn Road, Elgin - Prohibition of Waiting) Order 2021 and will come into operation on ***(date to be inserted)***.
2. The Interpretation Act 1978 shall apply for the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

PROHIBITION OF WAITING

3. Save as provided for in Article 4 & 5 of this Order, no person, except upon the direction of or with the permission of a Police Constable in uniform, cause or permit any vehicle to wait in any of the lengths of road as listed in the Schedule to this Order, during the prohibited hours.

EXEMPTION FROM WAITING RESTRICTIONS

4. Nothing in Article 3 of this Order shall prevent any person from causing or permitting a vehicle to wait in any of the length of road referred to in that Article for so long as may be necessary to;

- a) enable a person to board or alight from their vehicle;
- b) enable goods to be loaded or unloaded from the vehicle;
- c) enable the vehicle if it cannot be conveniently used for such purpose

on any other road to be used in connection with any building operation or demolition, removal of any obstruction to traffic, the maintenance, improvement or reconstruction of any of the said length of road or parts thereof of the laying, erection, alteration or repair of any sewer or any main, pipe or apparatus for the supply of gas, water or electricity or of any telegraphic lines as defined in the Telegraphic Act 1878; or

- d) enable (on any one occasion) a maximum of three vehicles owned by a funeral undertaker or owner of funeral vehicles, to be used for a purpose connected with a funeral but only on occasion when the vehicle or vehicles could not be used conveniently be used for such purpose on any other road; or

e) enable (on any one occasion) a maximum of two vehicles to be used for a purpose connected with a wedding, but only on occasion when the vehicle or vehicles could not be used conveniently for such purpose on any other road.

5. Nothing in Article 3 of this order shall prevent any disabled person's vehicle, which is not causing an obstruction and which displays in a relevant position, a disabled person's badge issued by a local authority in exercise of its powers under Section 21(1) of the Chronically Sick and Disabled Persons Act 1970 from waiting for a period not exceeding three hours, subject to the conditions that the period of exempted waiting does not begin less than one hour after a previous period of exempting waiting by the same vehicle on the same road, on the same day, all in line with local Authorities (Traffic Orders) exemptions for Disabled Person (Scotland) Regulations 2002.

GENERAL

Upon the coming into effect of this Order any orders made or having effect as if made under the Road Traffic Regulation Act, 1984 and existing at the time when this Order comes into operation which impose a restriction or prohibition of waiting on any of the lengths of road specified in the Schedule to this Order, in so far as that enactment so refers are hereby revoked. In particular this Order will revoke The Grampian Regional Council (Various Streets, Elgin) (Prohibition of Waiting) Order 1982 in so far as it relates to Hawthorn Road and The Moray Council (Waiting Restrictions, Elgin) Order 2001 in so far as it relates to Forteach Street in Schedule 1 and Blantyre Place in Schedule 5 and replaces them with the provisions contained in the Schedule to this Order.

Given under the Seal of Moray Council on ***(date to be inserted)***

Legal Services Manager

MORAY COUNCIL

ROAD TRAFFIC REGULATION ACT 1984, AS AMENDED

**MORAY COUNCIL
 (BLANTYRE PLACE, BRACO PLACE, FORTEATH STREET AND HAWTHORN ROAD,
 ELGIN – PROHIBITION OF WAITING) ORDER 2021**

SCHEDULE

“NO WAITING AT ANY TIME”

<u>Location</u>	<u>Description</u>
Braco Place, Elgin (South west side)	From its junction with Hawthorn Road in a north-westerly direction for a distance of 10 metres or thereby.
Braco Place, Elgin (North east side)	From its junction with Hawthorn Road in a north-westerly direction for a distance of 12 metres or thereby.
Forteach Street, Elgin (Both sides)	From its junction with Hawthorn Road in a north-westerly direction for a distance of 10 metres or thereby.
Forteach Street, Elgin (Both sides)	From its junction with Pluscarden Road in a south-easterly direction for a distance of 10 metres or thereby.
Hawthorn Road, Elgin (North west side)	From its intersection with the projected south-western kerblines of Braco Place in a south-westerly direction for a distance of 13 metres or thereby.
Hawthorn Road, Elgin (North west side)	From its intersection with the projected north-eastern kerblines of Braco Place in a north-easterly direction for a distance of 10 metres or thereby.
Hawthorn Road, Elgin (North west side)	From its intersection with the projected south-western kerblines of Forteach Street in a south-westerly direction for a distance of 10 metres or thereby.
Hawthorn Road, Elgin (North west side)	From its intersection with the projected north-eastern kerblines of Forteach Street in a north-easterly direction for a distance of 10 metres or thereby.

<u>Location</u>	<u>Description</u>
Hawthorn Road, Elgin (North west side)	From its junction with South Street in a south-westerly direction for a distance of 19 metres or thereby.
Hawthorn Road, Elgin (South east side)	From its junction with South Street in a south-westerly direction for a distance of 22 metres or thereby.
Blantyre Place, Elgin (Both sides)	From its junction with North Street (A 941) in a westerly direction for a distance of 34 metres or thereby.
Orders to be Revoked	<p>The Grampian Regional Council (Various Streets, Elgin)(Prohibition of Waiting) Order 1982 in so far as it relates to Hawthorn Road.</p> <p>The Moray Council (Waiting Restrictions, Elgin) Order 2001 in so far as it relates to Forteach Street in Schedule 1 and Blantyre Place in Schedule 5.</p>

Legal Services Manager

Question 2: Do you agree or disagree that the form of a Pavement Parking Exemption Order should follow a similar format to the TRO example shown above?

Question 3: Are there any additional points that you think would be appropriate to include within a Pavement Parking Exemption Order?

Question 4: Are there any alternative formats that would be better suited to this type of Exemption Order?

(b) Procedure to be followed to make, amend or revoke an Exemption Order

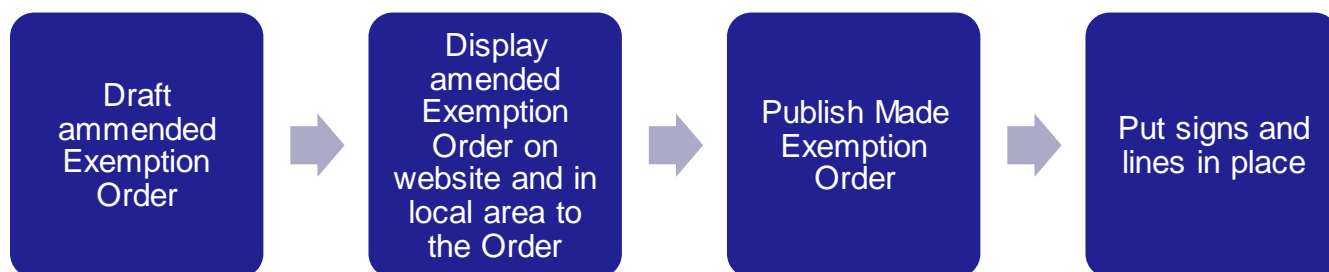
Once an Order has been drafted by a local authority it is proposed that the procedure to make, amend or revoke an Order will be similar in nature to the existing TRO procedures.

Below is a shortened sequence of events for each of the differing scenarios which are more fully explained in each of the sections below:

Making an Exemption Order:

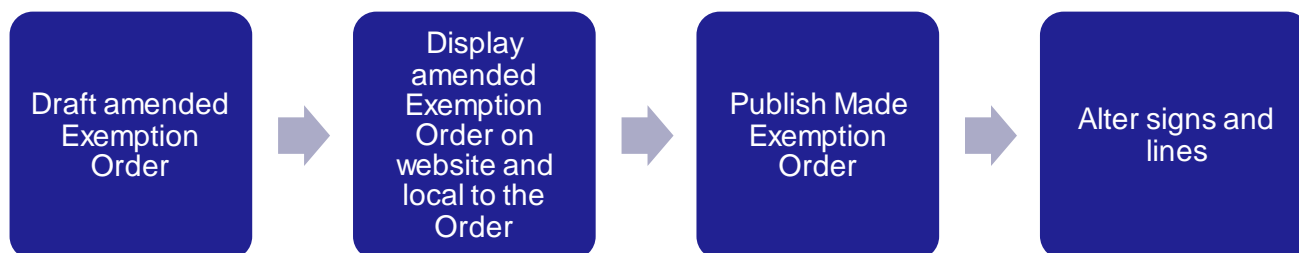


Modifying a proposed Exemption Order to exempt less pavement:



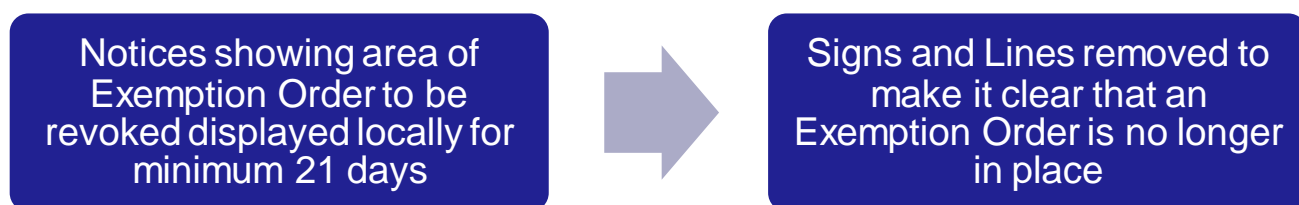
It is proposed that a local authority can only alter a proposed Exemption Order to lessen the amount of footway area which is subject to the exemption. If they wish to increase the area they would be required to undertake the process of making a new Exemption Order.

Amending an existing Exemption Order to exempt less pavement:



It is proposed that a local authority can only alter an existing Exemption Order to lessen the amount of footway area which is subject to the exemption. If they wish to increase the area they would have to undertake the process of making a new Exemption Order.

Revoking an existing Exemption Order:



(c) Publication of a proposal

It is proposed that before the making of a Pavement Parking Exemption Order, local authorities must publish Notice of the Order on their website for a one week period prior to and during the minimum 21 day consultation response period (beginning on the date on which a notice is published and ending of the date specified in that notice as the date by which any objection/notice of support to the order must be made, or such longer period as the authority may specify beginning with the date on which the authority has complied with its obligation to publish details of the proposal to make the order). The proposed Exemption Order would also be required to be made available for viewing at a local authority office as is standard practice with TROs. It would also be good practice for local authorities to publicise the Notice on their social media platforms.

It is also essential that members of the public are able to view other pavement parking exemptions which may already exist in their area. As such we would propose that an archive of Exemption Orders, including maps illustrating their location, should be maintained by local authorities and made available to view on the local authorities' website. Information relating to this online archive should be included within the Notice of the Order to ensure members of the public are fully informed of the proposal and the context in which it is being proposed.

Additionally, a copy of the Notice of the Order must be placed in appropriate locations, for example, on lampposts in the vicinity (see question 10 for further details) of the proposed exemption, for one week before and during the consultation response period.

Given the costs to local authorities and our enhanced proposals for who should be informed by leaflet within the local area (shown under section d) we do not think that it is appropriate for the Notice of Pavement Parking Exemption Orders to be advertised in the printed press. Although this is a requirement under existing TRO regulations no such requirement is placed on London's Boroughs where a ban on pavement parking has been active for over 40 years.

Question 5: Do you agree or disagree that local authorities should have to publish details of their proposals on their website for a period of no less than a week before, and during the consultation response period?

Question 6: Do you agree or disagree that local authorities should keep an archive of all previous and existing notices on their website?

Question 7: Do you agree or disagree that local authorities should display the Notice of Order on appropriate locations such as lampposts in the vicinity of a proposed exemption?

Question 8: Do you agree or disagree with the proposal that there should be no requirement to advertise Notices of Pavement Parking Exemption Orders in the printed press?

(d) Persons who must be consulted

The proposals would be similar to those followed under existing TRO regulations but without a need to run two separate objections periods. It would be our intention to allow for one consultation response period to cover all statutory consultees and members of the public.

We would envisage the list of consultees for a Pavement Parking Prohibition Notice to be similar to those who must be contacted for a new TRO. The current list of consultees below can be found in at regulation 4 within [The Local Authorities' Traffic Orders \(Procedure\) \(Scotland\) Regulations 1999](#).

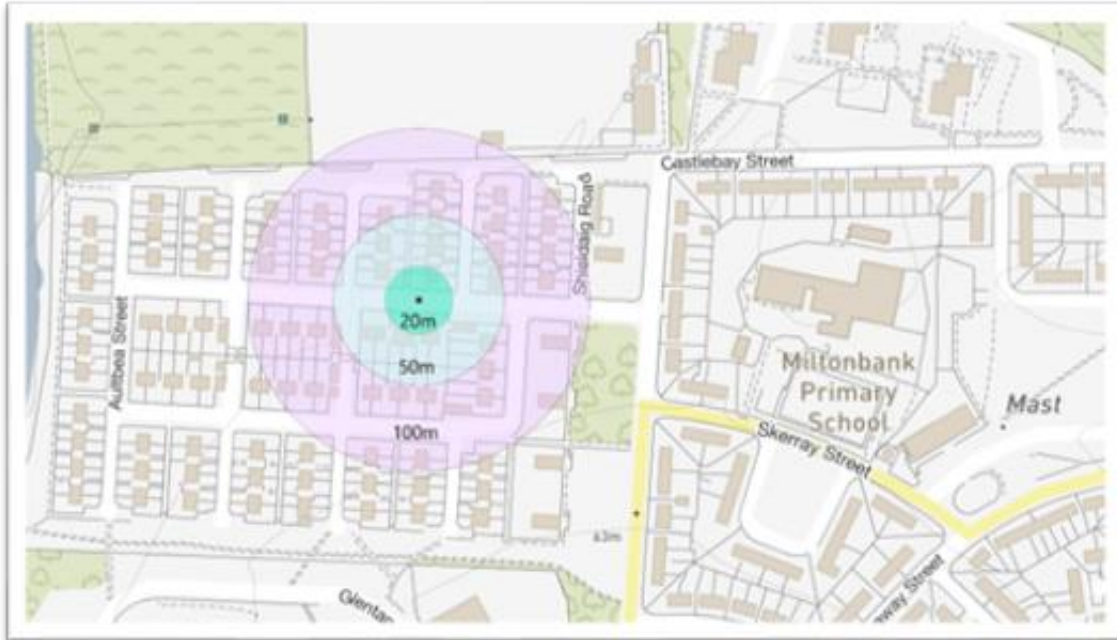
- The Chief Officer of Police Scotland;
- The Chief Officer of the appropriate NHS Trust and/or the Fire authority (where it appears that the Order is likely to affect the passage on any road or place of an ambulance or fire fighting vehicle);
- Other local authorities (where the order relates to, or appears to the authority to be likely to affect traffic on, a road for which another authority is the local traffic authority);
- The appropriate Crown authority (where the order relates to, or appears to the authority to be likely to affect traffic on a Crown road – a road, other than a public road, to which the public have access by permission granted by the appropriate Crown authority, or otherwise granted by or on behalf of the Crown);

- The Concessionaire (where the order relates to, or appears to the authority to be likely to affect traffic on a road subject to a toll order);
- The operator of the service and the appropriate Passenger Transport Authority – an authority responsible for setting out transport policy and public transport expenditure plans in their regions (where the order relates to, or appears to the authority to be likely to affect traffic on a road on which public passenger transport services are provided);

In addition to this, and in light of the proposals not to require Notice of Pavement Parking Exemptions Orders to be advertised in the printed press, we also propose that any residence or business premises within a set distance of an area the footway or associated carriageway which the local authority wishes to exempt should also receive a notice through their door advising of the proposals.

Having discussed this with a number of local authorities and the Society of Chief Officers of Transportation in Scotland (SCOTS) through our parking stakeholder group, it is our proposal that any residence or business within 50 metres of any part of a proposed Pavement Parking Exemption Order should receive notice of the proposal through their door at least 7 days before the consultation response period begins. That notice should detail the area which is proposed to be exempt and details of how objections/notices of support can be made. We realise that the number of properties affected would vary from case to case and that 50 metres may not encompass all the relevant parties that a local authority may wish to inform. This would therefore be a minimum distance stipulated in the regulations, however local authorities may wish to use their discretion and consider contacting other relevant stakeholders, residences or businesses, for example schools, places of worship, shops, offices etc. within 100 metres of their proposals.

In the diagram shown below we have marked out an example of the number of properties based on an area with blocks of two semi-detached houses. In this example, a 20m vicinity would result in contact with 6 properties immediately bordering the proposed parking exemption. A 50m vicinity would result in contact with around 25 properties and a 100m vicinity around 84 properties would be contacted and given notice of the proposed parking exemption. In the example below there is a school that falls out with the contact vicinity but if, for example, the pavement to be exempt was part of a core path network allowing for pupil access to that school, then the local authority may wish to consider contacting the school to highlight the proposals. This would be a discretionary obligation and it would be up to each local authority to decide whether to consult out-with the distances detailed above.



Question 9: Do you agree or disagree with the proposal that the same list of consultees for TROs should be applied to the Exemption Orders process, including Police Scotland and the other parties set out above?

Question 10: Do you agree or disagree with the proposal that residencies and businesses, and any other stakeholders present within a set distance of a proposed exemption should have a notice placed through their door or posted to them?

If so, what would you think that minimum set distance should be?

- 100 metres?
- 50 metres?
- 20 metres?
- Something else?

Question 11: Do you agree or disagree that local authorities should be able to contact other possible stakeholders they may wish to inform who live out with an established contact vicinity?

Question 12: Are there any other parties who you consider should be formally consulted on a proposed Exemption Order?

(e) Process for making objections / notices of support

We must ensure that the regulations provide scope for both statutory consultees and members of the public to object/support a proposed exemption order. A statutory

consultation period would be advertised detailing where and how both notices of support and/or objections can be registered with the local authorities.

Separately, members of the public will be made aware of the proposed order through publication of the proposal (as outlined in paragraph (c) above). Publication of the proposed order will detail how members of the public may make objections or register support for the proposal.

It is our proposal that the statutory consultation response period, in which both objections and notices of support may be made, will be a minimum of 21 days (in line with TRO timescales). During this period, a local authority must accept written notices of support and/or objections from interested parties and/or statutory consultees and keep a record of those received. The receipt of the notices should also be acknowledged.

Question 13: Do you agree or disagree that there should be a required period of time to allow for written notices of support and/or objection to be made (a consultation response period)?

Question 14: Do you agree or disagree that this period should be for a minimum of 21 days? If no, would you suggest an alternative length of time?

(f) Considering objections and holding of inquiries

This consultation has previously discussed how local authorities are familiar with the TRO process and the same can be said with regards to the handling of objections received as a result of that process. As such it is envisaged that the handling of notices of support and objection will be very similar to the process already in place for TROs.

It is proposed that the regulations will lay out a minimum standard that local authorities will have to follow, but also give them the options to go above and beyond those if they so choose, within the context of considering objections and holding hearings.

No Objections

If no objections to a Notice of Pavement Parking Exemption Order are received, we would propose that an appropriate official of the local authority acting under delegated authority or equivalent would be able to make the Order.

Objections Received

Where objections are received, it is proposed that these should be assessed by the relevant local authority officials, together with any notices of support that may have been submitted, and a report should thereafter be issued to a local authority committee to make an informed decision on whether the Order should be made. It would be for the local authority to decide, depending on the nature of the objections, whether that committee should be a Constituent Committee or a Full Council

Committee. We would also propose that Objectors should be informed of where and when the Committee is taking place and asked if they wish to attend and/or make representations to the Committee.

Referral to a Public Local Inquiry or Hearing or the ability for Scottish Ministers to “call in”

There may be instances where an objector may wish to appeal against a Council Committee’s decision, or where a Council may in the first instance be unable to reach a decision (for example, if the matter controversial in nature or of wider significance etc.). In such scenarios, an objector or a Council may refer the matter to Scottish Government’s Planning and Environmental Appeals Division (DPEA) who can arrange a Public Local Inquiry or a Hearing.

Scottish Ministers themselves may wish to “call in” a proposal, however we would only ever envisage this being used where a matter of genuine national interest, such as one that could undermine the spirit of the Act and specifically the provisions relating to the pavement parking prohibition.

The proposed process above for considering objections and holding of inquiries is high level and further discussions would be required with relevant parties, should the results of this consultation show a desire for this.

Question 15: Do you agree or disagree that the consideration of notices of support and objections should be handled in a similar way to the existing TRO process?

Question 16: Do you agree or disagree that if no objections are received to an Order then it should be processed by the local authority’s roads department, without the need to be approved by a committee?

Question 17: Do you agree or disagree that if there are objections and notices of support then these should be reported to a local authority committee to make a decision, similar to current TRO’s?

Question 18: Do you agree or disagree that objectors should be notified as to when the matter will be put in front of committee and given the opportunity to make representations?

Question 19: Do you agree or disagree that if a local authority cannot make a decision via committee then they could have the opportunity to refer a case to the DPEA to arrange a Public Local Inquiry or a Hearing?

Question 20: Do you agree or disagree that Scottish Ministers should have the ability to “call in” a case should a matter of genuine national interest be at stake?

(g) Modification of a proposal

During the course of consultation and following receipt of any objections and a possible hearing on this matter, there may be a need for local authorities to modify their proposals for an exemption order.

We would propose that if a local authority were looking to reduce the area of a proposed Pavement Parking Exemption Order wholly within the area of the original draft Order, then they should be able to do so given that the area of the Order is being reduced. Given that the result of this modification is a lessening of the area of footway they plan to exempt from the pavement parking prohibition, we would not envisage that local authorities would have to undertake a further consultation on this but would have to display the amended order on their website and in the vicinity of the proposed exemption, noting that what is proposed is a modification from the original Notice of Pavement Parking Exemption Order.

Should a local authority wish to increase the area of footway they plan to exempt, this would fall out with the area originally advertised and should therefore be the subject of a new Pavement Parking Exemption Order. As a new order would be required, the local authority would be obliged to undertake the order making process from the beginning, including consulting with the public and key stakeholders and consideration of any objections that may be received.

Question 21: Do you agree or disagree that local authorities should be able to modify their proposals only where the modified Order covers less pavement than the area of exemption in the original order?

Question 22: Do you agree or disagree that local authorities should not have to consult on such a modification?

Question 23: Do you agree or disagree that local authorities should not have to advertise the modification except the requirement to place the modified Order on their website?

(h) Notices to be given when making, amending or revoking an order

Again there is a well-established process for the making, amending and revoking of a TRO Order and we do not envisage the process for Pavement Parking Exemption Orders should differ vastly from this.

Making

We would propose that once a decision has been made to make a Pavement Parking Exemption Order a number of steps similar to those required in The Local Authorities' Traffic (Procedure) (Scotland) Regulations 1999 should be taken by local authorities. However, in line with the proposed advertising regime to be followed for the Notice of the Order, we would also propose that this would be placed on the local authorities website rather than being advertised in the printed press. Local authorities could still advertise in the printed press if they desire to do so.

We would therefore propose that a local authority should, within 14 days of making an Order:

1. Give written notice of the making of the Order to Police Scotland;
2. Write to all objectors who had not withdrawn their objections to notify them of the authorities' reasons for making the order;
3. Publish the Order on their website and, if they consider it necessary, in the printed press;
4. Also post a notice of the made Order to the same list of premises they posted the Notice of Pavement Parking Prohibition Order to originally.

Amending

As per the proposed procedure to be followed when modifying a proposed Order, we would only envisage that a local authority would amend an Order if it was to result in a reduced area of footway being exempt within the same footprint of the original Order. If the local authority wish to increase the area of the exemption, this should be treated as a new Order and the procedures followed accordingly.

Revoking

Given that the revocation of an Order would have the effect of removing the exemption to the National pavement parking prohibition, we would propose that notices of the revocation should be placed within the vicinity (see question 10 for further detail) of the exempted area for a period of 21 days before the signage and linage was to be removed. This would be vital to ensuring that people who used this area were aware that the ability to park on the pavement was being removed. It is proposed that the revoking of an order would not be open to objections as it would be reverting that area of pavement back to the national ban.

Question 24: Do you agree or disagree with the proposals in relation to notices to be given when making an Order?

Question 25: Do you agree or disagree with the proposals in relation to notices to be given when amending an Order?

Question 26: Do you agree or disagree with the proposals in relation to notices to be given when revoking an Order?

Consultation Questions

Number	Consultation Question
1	Do you agree or disagree with the proposed road characteristics that would allow local authorities to consider an exemption order from the pavement parking prohibition? Please be as specific as possible in your reasoning.
2	Do you agree or disagree that the form of a Pavement Parking Exemption Order should follow a similar format to the TRO example shown above?
3	Are there any additional points you feel should be shown in a Pavement Parking Exemption Order?
4	Are there any alternative formats you feel would be better suited to this type of Exemption Order?
5	Do you agree or disagree that local authorities should have to publish details of their proposals on their website for a period of no less than a week before, and during the consultation response period?
6	Do you agree or disagree that local authorities should keep an archive of all previous and existing notices on their website?
7	Do you agree or disagree that local authorities should display the Notice of Order on appropriate locations such as lampposts in the vicinity of a proposed exemption?
8	Do you agree or disagree with the proposal that there should be no requirement to advertise Notices of Pavement Parking Exemption Orders in the printed press?
9	Do you agree or disagree with the proposal that the same list of consultees for TROs should be applied to the Exemption Orders process, including Police Scotland and the other parties set out above?
10	<p>Do you agree or disagree with the proposal that residencies and businesses, and any other stakeholders present within a set distance of a proposed exemption should have a notice placed through their door or posted to them?</p> <p>If so, what would you think that minimum set distance should be?</p> <ul style="list-style-type: none"> • 100 metres?

	<ul style="list-style-type: none"> • 50 metres? • 20 metres? • Something else?
11	Do you agree or disagree that local authorities should be able to contact other possible stakeholders they may wish to inform who live out with an established contact vicinity?
12	Are there any other parties who you consider should be formally consulted on a proposed Exemption Order?
13	Do you agree or disagree that there should be a required period of time to allow for written notices of support and/or objection to be made (a consultation response period)?
14	Do you agree or disagree that this period should be for a minimum of 21 days? If no, would you suggest an alternative length of time?
15	Do you agree or disagree that the consideration of notices of support and objections should be handled in a similar way to the existing TRO process?
16	Do you agree or disagree that if no objections are received to an Order then it should be processed by the local authority's roads department without the need to be approved by a committee?
17	Do you agree or disagree that if there are objections and notices of support then these should be reported to a local authority committee to make a decision, similar to current TRO's?
18	Do you agree or disagree that objectors should be notified as to when the matter will be put in front of committee and given the opportunity to make representations?
19	Do you agree or disagree that if a local authority cannot make a decision via committee then they could have the opportunity to refer a case to the DPEA to arrange a Public Local Inquiry or a Hearing?
20	Do you agree or disagree that Scottish Ministers should have the opportunity to "call in" a case should a matter of genuine national interest be at stake?
21	Do you agree or disagree that local authorities should be able to modify their proposals only where the modified Order

	covers less pavement than the area of exemption in the original order?
22	Do you agree or disagree that local authorities should not have to consult on such a modification?
23	Do you agree or disagree that local authorities should not have to advertise the modification except the requirement to place the modified Order on their website?
24	Do you agree or disagree with the proposals in relation to notices to be given when making an Order?
25	Do you agree or disagree with the proposals in relation to notices to be given when amending an Order?
26	Do you agree or disagree with the proposals in relation to notices to be given when revoking an Order?

Annex A – Consultation Responses

Respondent Information Form

Please note this form must be completed and returned with your response.

Are you responding as an individual or on behalf of an organisation?

Individual

Organisation

Your full name or the organisation's name

Phone Number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

Publish response without name (Please note this does not apply to organisations)

Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss.



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Published by Transport Scotland, December 2021

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