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Motorsports on Closed Public Roads

A Consultation

December 2018

**MINISTERIAL FOREWORD FROM THE CABINET SECRETARY FOR
TRANSPORT, INFRASTRUCTURE AND CONNECTIVITY,
MICHAEL MATHESON MSP**



Scotland has a long and proud tradition in the world of motorsports and the Scottish Government recognise the need to balance the potential for economic benefit and public enjoyment from such events with a high degree of safety, both for spectators and road users.

Following the tragic events of recent years, Scotland has lost two major events from its sporting calendar and has been unable to host any motorsports on closed public roads. This is detrimental to local economies and something which we are seeking to address. We do however need to be mindful that motorsports can be dangerous and that risk needs to be correctly assessed and managed.

It is important that the people who understand the sport are put at the heart of this assessment and also to ensure that local knowledge is fully taken into account. That is why the Scottish Government is seeking your views on a two stage authorisation process which would allow decisions to be taken at a local level therefore empowering communities to hold events for the benefit local areas.

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1 Responding to this consultation

1.1. About this consultation

Consultation is an essential part of the Scottish Government's policy making process. It gives us the opportunity to seek your opinions. This consultation sets out the issues under consideration and asks you questions about what we are proposing. After the consultation is closed we will publish responses where we have been given permission to do so.

Responses are 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 shape the future of Motorsports on closed public roads in Scotland.

1.2. Deadline

This consultation closes at midnight on 28 January 2019.

1.3. How to respond

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

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

1.4. Responding online

To respond online please use the Scottish Government's Consultation Hub, Citizen Space at <http://consult.scotland.gov.uk>. 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 28 January 2019.

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 happy for it to be made public.

You can also complete the response form in Annex A and either send us a scanned copy with your response email or send it with your response to the address given below.

1.5. Table of response methods

Online	<p>You can use the response form on the Scottish Government's consultation hub, Citizen Space at:</p> <p>https://consult.scotland.gov.uk/transport-scotland/motorsports-on-closed-public-roads</p> <p>Please complete the Respondent Information Form.</p>
Email	<p>Send us your response in an email to:</p> <p>motorsportsconsultation@transport.gov.scot</p> <p>Please include a completed Respondent Information Form.</p>
Post	<p>Send your response to:</p> <p>Motorsports 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</p>

1.6. Next Steps

After the consultation has closed we will analyse all of the responses received and use your feedback to help inform the development of future regulations on motorsports on closed public roads. Where permission has been given, we will make all responses available to the public at <https://consult.scotland.gov.uk>. The responses to the consultation and analysis will be published early in 2019.

1.7. Need assistance?

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

Motorsports Consultation, Road Policy Team
Transport Scotland 4th Floor Buchanan House
58 Port Dundas Road
Glasgow
G4 0HF

2 Background

The purpose of this consultation paper is to invite views from stakeholders and interested parties on a proposal to permit motorsports events, such as stage rallies, hill climbs and trials of speed, on closed public roads in certain circumstances.

The UK as a whole plays host to around 9,000 motorsports events annually, 700 of which take place in Scotland, which are organised by the Motor Motor Sports Association (MSA) and the Scottish Auto Cycle Union (SACU). The vast majority of these take place in purpose built venues or in rural off-road locations.

It is a criminal offence to promote or take part in a race or trail of speed on public roads in Scotland. The only exceptions to this currently in Scotland are events authorised under the Scottish Borders Council (Jim Clark Memorial Rally) Order Confirmation Act 1996 and the Strathclyde Regional Council Order Confirmation Act 1990. Both pieces of private legislation made at Westminster authorise and allow, respectively, the Jim Clark Rally and the Isle of Mull Rally. Neither of these rallies have been held in recent years due to ongoing issues faced by the event organisers with insurance cover following two tragic incidents in 2013 and 2014 which resulted in four fatalities.

In June 2014 Scottish Ministers announced that a Motorsport Event Safety Review Group would examine safety, and specifically spectator safety, at motorsport events in Scotland and make recommendations to improve safety for future events. The review recognised that there is an inherent risk in taking part in or attending motorsport events and it sought to recommend reasonable and proportionate measures that would manage and minimise the risks to spectators. The full findings can be viewed at: <https://www.gov.scot/Resource/0046/00467124.pdf>

In December 2016 the Crown Office and Procurator Fiscal Services (COPFS) announced that a single Fatal Accident Inquiry (FAI) would take place into the fatalities at both the Snowman and Jim Clark Rallies. The FAI determination was published in November 2017 and the full findings can be viewed at: <https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2017fai026.pdf?sfvrsn=0>

Motorsport events, such as the Jim Clark Rally, can have a positive impact on the local economy. Previous analysis of the Jim Clark Rally by the Sheffield Hallam University Sport Industry Research Centre estimated that an additional £1.2 million was spent in the local area during the 3 day event by visitors and organisers linked to the staging of the rally.

3 Current Arrangements

Local Authorities and the Scottish Government already have the ability to authorise a road closure for sporting, social or entertainment events to be held on public roads but this power does not extend to a closure for motorsports events. There are no current powers to suspend the operations of the Road Traffic Acts which means that speed limits, traffic signals and the requirements for a vehicle to be roadworthy are still in force during such closures.

The Road Traffic Act 1988 (RTA) prohibits racing and trials of speed by motor vehicles on roads in Scotland. It is a criminal offence to promote or take part in a race or trial of speed between motor vehicles on a public road. Any person who promotes or takes part in a race or trial of speed is guilty of a criminal offence punishable by a fine of up to £2,500, obligatory disqualification from driving and between 3 and 11 penalty points which could lead to a further ban.

Races or trials of speed on public roads can be permitted by the UK Parliament on an event by event basis through the Private Bill procedure. A Private Bill is promoted by an individual or organisation outside of the Houses of Parliament, normally a local authority, to obtain powers or benefits which are either in excess of, or in conflict with, the general law. These powers will only apply for the purpose of the particular Private Bill.

Such a Bill promoted under the Private Bill process can take in the region of 18 months or longer and needs the approval of both Houses of Parliament and as such has been used infrequently.

There are two examples of private legislation authorising motorsports events in Scotland. The Jim Clark Rally had been held annually from 1997 until recently, under the authorisation of the Scottish Borders Council (Jim Clark Memorial Rally) Order Confirmation Act 1996. This event has not been held since a tragic accident in 2014 when a rally car left the closed public road whilst competing, fatally injuring 3 spectators and injuring others. Similarly, the Isle of Mull Rally had been held annually since 1990, under the authorisation of the Strathclyde Regional Council Order Confirmation Act 1990 but has not been held in recent years.

Event organisers have been unable to arrange suitable insurance cover for either of these events in recent years and it would appear that this will be an ongoing issue for any events promoted under the existing legislation. This is due to the way the insurance industry interprets the provisions of both acts regarding liability.

Other motor vehicle competitions such as navigational rallies and treasure hunts are permitted on public roads, subject to an authorisation procedure. Racing is permitted off of the public road subject to a similar authorisation process.

In Scotland motorsports are governed by the MSA, for 4 wheel motorsports, and the SACU for 2 wheel motorsports. The MSA is the sole national governing body for 4 wheel motorsport in the UK as recognised by the world governing body, the Federation Internationale de l'Automobile (FIA). The MSA and SACU issue competition licenses and provides event insurance and training for officials.

The MSA and SACU both have vast experience in issuing race licences to clubs every year. The SACU issues around 1,700 every year and in the past 5 years the MSA have issued over 4,000 Scottish competition licences. Between them they have over 16,000 members who organise and run over 700 events annually. Scotland has over 1,000 registered volunteer marshals, 6.5% of the UKs total.

The MSA has previously asked the Scottish Government to consider allowing a limited number of motorsport events on public roads to aid in the development of the sport.

The Scottish Ministers have the power, under Section 12 of the Deregulation Act 2015, to make provision for authorising, the holding of races or trials of speed on public roads in Scotland. The powers in the 2015 Act were granted following a UK Government consultation on a proposal to authorise motorsports events on public roads. The Department for Transport have completed the work necessary to bring the Deregulation Act provisions on motor racing in England into effect, with Regulations specifying the motorsports governing bodies who are authorised to issue the necessary permits coming into force in April 2017. Wales followed suit in February 2018.

4 The Proposals

The Scottish Government is seeking views on the proposal to introduce a two stage process to allow motorsport events to be held on closed public roads.

Stage 1 – Motorsports Permit

The Scottish Government is seeking views on a proposal to give the relevant motorsport governing bodies, namely the MSA and SACU, the power to issue motorsport event permits for events to be held on closed public roads. This permit allows an event organiser to approach the relevant local authority for a motorsports event order (Stage 2). If no permit and order are in place an event cannot go ahead.

The MSA and the SACU already have considerable experience of authorising events, including taking into account the needs of residents and communities when planning events. They issue skill-related competition licences for various types and classes of motorsport events and there are ranges of safety requirements that competitors must comply with in order to take part in various events. As is existing practice in England and Wales they would be required to licence the participating drivers and vehicles as well as the route of such events. They would also be

required to undertake consultations with event organisers, roads authorities, local authorities and Police Scotland before a permit is issued.

The motorsports governing bodies also have an ongoing responsibility to ensure that their guidelines and safety requirements are adhered to. The MSA's Stage Rally Safety Requirements Document is an example of the type of safety requirements which are placed on event organisers before a permit is issued. This can be viewed at <https://www.msauk.org/assets/msasrirsapril2018edition4.pdf>.

The motorsports governing bodies involvement does not stop on the issuing of a permit. In the above example MSA officials such as an MSA Safety Delegate and an MSA Steward take on key posts in stage rallies and are present at the event. They have the power to cancel entire events or part of the event on safety grounds if they have concerns at any point.

Stage 2 – Motorsports Order

The Scottish Government is seeking views on a proposal to extend local authorities powers to close public roads for events to include motorsports events.

Local authorities currently have the power to authorise a road closure for sporting and leisure events on public roads under the Road Traffic Regulations Act 1984 (RTRA). This does not currently extend to the closure of public roads for motor vehicle races or trials of speed. The proposal is to remove this restriction and allow local authorities to consider closing public roads for motorsports events.

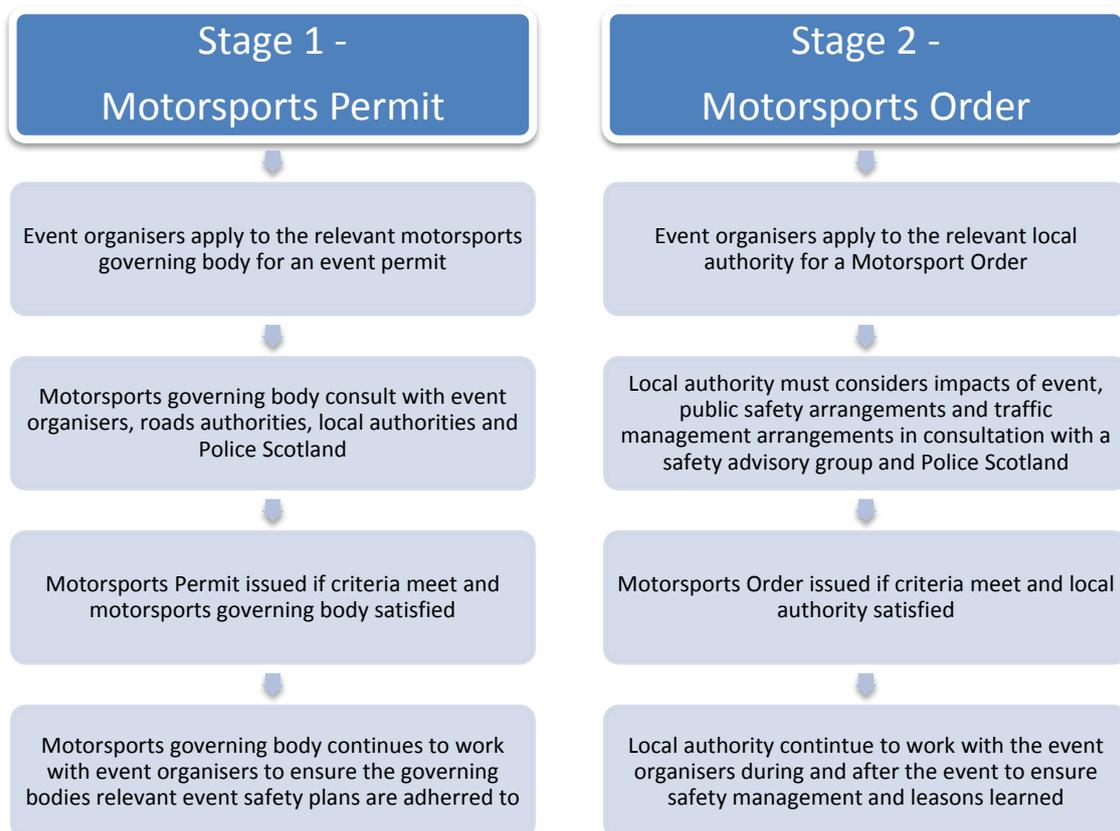
Once a motorsports permit is issued by the relevant motorsports governing body, permit holders would then need to apply to the relevant local authority for a motorsports order under the RTRA a minimum of six months in advance of the proposed event.

It is proposed that the local authority will determine whether or not to make a motorsports order by considering the likely impact of the event on the local community, the potential local economic and other relevant factors. The local authority would also need to be satisfied that the views of the local community had been taken into account and that adequate public safety and traffic management arrangements had been made. This would be done in consultation with the local authorities Safety Advisory Group (SAG) and Police Scotland.

The effects of such a motorsports order would be to suspend a prescribed list of road traffic regulations such as speed limits for those participating in the event. Consideration may also be given to allowing local authorities to carry out works on public roads as they consider necessary in connection with a motorsports order.

Under the RTRA, the relevant Traffic Authority can only close the same stretch of road once a year. The Traffic Authority needs to obtain approval from the Secretary of State for further road closures using the same stretch of road in the same calendar year. It is proposed that restriction and exemption scheme would

remain and be extended to cover motorsports events. A local authority would therefore have to consider if the same stretch of road had been closed previously in the same calendar year.



Additional Powers

It is also proposed that Scottish Ministers would have the powers to impose conditions on the relevant roads authority should this be required in the future. This is similar to the existing powers which Scottish Ministers have in relation to the Scottish Borders Council (Jim Clark Memorial Rally) Order Confirmation Act 1996.

This power has been used in recent years to impose an additional condition on the event organisers to compile a safety report detailing how they would intend to implement the MSA Stage Rally Safety Requirements in the running of the Jim Clark Rally.

5 Consultation Questions

5.1. Overall Proposals

Question 1: Do you agree with the proposal to introduce a two stage application process, involving Motorsports Governing Bodies and Local Authorities, to allow motorsport events to take place on closed public roads in Scotland? If not please explain why.

5.2. Local Authority Powers

Question 2: Do you agree that the current powers local authorities have to close roads for events should be extended to cover motorsport events? If not please explain why.

Question 3: Do you agree that local authorities should have the power to suspend the speed limit and applicable road traffic regulations for event participants? If not please explain why.

Question 4: Do you agree that local authorities should have the ability to carry out works on public roads as they consider necessary in connection with a motorsports order? If not please explain why.

5.3. Motorsports Governing Body Powers

Question 5: Do you agree that the relevant Motorsports Governing Bodies should have the power to issue a Motorsports Permit as stage one of a two stage application process? If not please explain why.

5.4. Local Road Authority Specific Questions

Question 6: Would you consider working with a motorsports governing body to host an on road event within your local authority area? If not please explain why.

Question 7: Do you anticipate any potentially negative implications from the motorsport events being run by motorsports governing bodies in your local area? If not please explain why.

Question 8: Do you envisage the need for any further powers in order to hold a safe and efficient event?

5.5. Impacts Of The Proposals

Question 9: Are you aware of any further evidence that should be considered regarding the impacts of the policy proposals?

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.

Transport Scotland, Buchanan House,
58 Port Dundas Road, Glasgow, G4 0HF
0141 272 7100

info@transport.gov.scot

<http://www.transport.gov.scot>

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