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Prostitution Tolerance Zones (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to allow local authorities to designate areas as zones within which loitering, soliciting or importuning by prostitutes is not an offence under section 46(1) of the Civic Government (Scotland) Act 1982; and for connected purposes.

Designation of prostitution tolerance zones

1  **Power to designate prostitution tolerance zones**

A local authority may designate an area forming part of the authority’s area as a "prostitution tolerance zone"; but this section is subject to sections 2 and 3.

2  **Notice of, and consultation on, proposed zone**

   (1) Before exercising the power conferred by section 1 above, the authority shall—

   (a) prepare a draft designation;

   (b) give notice of the draft designation in at least one newspaper circulating in the area of the proposed prostitution tolerance zone;

   (c) send or deliver (or secure that there is sent or delivered) notice of the draft designation to each heritable property within the proposed zone; and

   (d) consult the persons mentioned in subsection (4) on the draft designation.

   (2) The draft designation prepared under subsection (1)(a) shall set out—

   (a) the boundaries of the proposed prostitution tolerance zone;

   (b) the times at which the proposed zone is to operate (which may differ on different days); and

   (c) a draft code of conduct for persons participating in the operation of the zone.

   (3) A notice under subsection (1)(b) or (c) shall—

   (a) set out the authority’s draft designation; or

   (b) state where, in what form and at what times the draft designation may be inspected,

   and shall give details of how, and by what date (being a date not earlier than four weeks nor later than six weeks after the notice is given), representations about the draft designation may be made to the authority.
The persons who are to be consulted under subsection (1)(d) are—

(a) the chief officer of police for the police area within which the proposed prostitution tolerance zone is located;

(b) the owners of heritable property within the proposed zone (so far as those can reasonably be established);

(c) the Health Board within whose area the proposed zone is located (or where the proposed zone is located partly in one Health Board area and partly in another, both Health Boards);

(d) such organisations as appear to the authority to be representative of residents of the proposed zone; and

(e) such other persons as the authority think fit.

3 Making of designation

(1) If, having taken account of—

(a) the views of those consulted under paragraph (d) of subsection (1) of section 2; and

(b) any representations made in response to notices given under paragraphs (b) and (c) of that subsection,

the authority decide that it is appropriate to make the proposed designation, they may either—

(i) make the designation in the form originally proposed; or

(ii) revise the draft in such manner as they consider appropriate and, subject to subsection (2), make the designation in that revised form.

(2) Section 2 and subsection (1) above shall apply to any such revised draft designation as they apply to the original draft.

(3) A designation shall set out—

(a) the boundaries of the prostitution tolerance zone;

(b) the times of day during which the zone is to operate (which may differ on different days);

(c) a code of conduct for persons participating in the operation of the zone;

(d) the date (being a date not earlier than six weeks after the date on which the designation is made), on which the zone is to come into operation; and

(e) the period, not exceeding three years, for which the zone is to remain in operation.

(4) As soon as practicable (and in any case not later than one week) after the designation is made, the authority shall give notice of that fact in at least one newspaper circulating in the area of the prostitution tolerance zone.

(5) A notice under subsection (4) shall—

(a) set out the designation; or

(b) state where, in what form and at what times the designation may be inspected, and shall include the date on which the prostitution tolerance zone is to come into operation.
**Effect of designation**

4 Exemption of prostitution tolerance zones from places where soliciting etc. an offence

In section 46 of the Civic Government (Scotland) Act 1982 (c.45) (soliciting and importuning by prostitutes)—

(a) at the beginning of subsection (1) there is inserted “Subject to subsection (3) below,”;

(b) after subsection (2) there is added—

“(3) No offence is committed under subsection (1) above by virtue of anything done in a public place which is, for the time being, within a prostitution tolerance zone (within the meaning of the Prostitution Tolerance Zones (Scotland) Act 2002 (asp 00)) during such times as that zone is in operation.”.

**Miscellaneous**

5 Appeals

15 (1) A person aggrieved by the making of a designation under this Act may, not later than 28 days after the date on which the making of the designation is notified under section 3(4), appeal to the Scottish Ministers against the designation; and where such an appeal is made, the zone shall not come into operation until the appeal is determined.

(2) An appeal under subsection (1) shall—

(a) be made in writing;

(b) state on which ground (or grounds) of those mentioned in subsection (3) the appeal is made, and the reasons for appealing on that ground (or on those grounds);

(c) state whether the appellant wishes to be heard before the appeal is determined or is content for it to be determined on the basis of written submissions;

(d) be accompanied by a copy of the designation or the notice given under section 3(4); and

(e) be copied (without the accompanying document referred to in paragraph (d)) to the local authority which made the designation.

(3) The only grounds on which an appeal may be made are—

(a) that the prostitution tolerance zone consists of an area, or includes a place, inappropriate to such a zone;

(b) that the period during which the zone is to remain in operation, or the times of day during which it is to operate, are inappropriate;

(c) that the code of conduct (or any part of it) is inappropriate.

(4) Subject to their being satisfied that the appeal is made on one or more of the grounds set out in subsection (3), if—

(a) the appeal states, under subsection (2)(c), a wish for a hearing; or
(b) the local authority inform the Scottish Ministers in writing, within 14 days of receipt of a copy of the appeal under subsection (2)(e), of their wish for such a hearing.

the Scottish Ministers shall, before determining the appeal, give the appellant and the authority an opportunity to be heard.

(5) The Scottish Ministers may determine the appeal by—
   (a) allowing the appeal and revoking the designation;
   (b) allowing the appeal and, subject to subsection (6), varying the designation; or
   (c) refusing the appeal.

(6) Before varying the designation under subsection (5)(b), the Scottish Ministers shall give notice of the proposed variation to the local authority and the appellant and give each of them an opportunity to make representations.

(7) The Scottish Ministers may appoint persons to perform on their behalf—
   (a) all of the functions conferred on them by this section in relation to particular appeals under this section (or all such appeals); or
   (b) particular such functions in relation to particular such appeals (or all such appeals);

and where a person is so appointed, subsections (1) to (6) (or such of those subsections as confer the functions that the person was appointed to perform) shall apply as if the references to the Scottish Ministers were references to that person.

(8) The Scottish Ministers may, by order made by statutory instrument, make further provision about or in connection with appeals under this section; and a statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.

6 Power to suspend or modify operation of zone

(1) The chief officer of police of the police area within which a prostitution tolerance zone designated under this Act is located may, during the period when the zone is in operation, apply to the local authority to have the operation of the zone—
   (a) suspended for such period as may be specified in the application; or
   (b) modified to such extent or in such manner as may be so specified.

(2) On receipt of an application under subsection (1), the authority may—
   (a) suspend the operation of the zone for the period specified in the application or such other period as they consider appropriate; or (as the case may be)
       (b) subject to subsection (4), modify the operation of the zone (by varying the designation), to the extent or in the manner specified in the application or to such other such extent or in such other manner as they consider appropriate.

(3) Where an application has been made to them under subsection (1), the local authority shall give notice of that fact and of their decision under subsection (2) as soon as reasonably practicable in at least one newspaper circulating in the area of the prostitution tolerance zone and in such other manner as the local authority consider appropriate in the circumstances.
(4) Where a designation is varied under subsection (2)(b), sections 2 and 3 shall apply in respect of the varied designation as they applied in respect of the original designation.

General

7 Interpretation

In this Act—

“chief officer of police” means a chief constable appointed under the Police (Scotland) Act 1967 (c.77) and the chief constable of the British Transport Police;

“Health Board” means a Health Board constituted by order made under section 2(1)(a) of the National Health Service (Scotland) Act 1978 (c.29);

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39).

8 Short title

This Act may be cited as the Prostitution Tolerance Zones (Scotland) Act 2002.
Prostitution Tolerance Zones (Scotland) Bill  
[AS INTRODUCED]

An Act of the Scottish Parliament to allow local authorities to designate areas as zones within which loitering, soliciting or importuning by prostitutes is not an offence under section 46(1) of the Civic Government (Scotland) Act 1982; and for connected purposes.

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