

Traffic Management Act 2004

2004 CHAPTER 18

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An Act to make provision for and in connection with the designation of traffic officers and their duties; to make provision in relation to the management of road networks; to make new provision for regulating the carrying out of works and other activities in the street; to amend Part 3 of the New Roads and Street Works Act 1991 and Parts 9 and 14 of the Highways Act 1980; to make new provision in relation to the civil enforcement of traffic contraventions; to amend section 55 of the Road Traffic Regulation Act 1984; and for connected purposes.

[22nd July 2004]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:–

Extent

Preamble: England, Wales

PART 1

TRAFFIC OFFICERS

Traffic officers for England and for Wales

Law In Force

1 Traffic officers: introduction

(1) This Part makes provision for the designation of individuals as traffic officers by, or under an authorisation given by, the Secretary of State or the Assembly.

(2) The duties assigned to traffic officers must be connected with, or intended to facilitate or to be conducive or incidental to—

- (a) the management of traffic on the relevant road network; or
- (b) the performance of any other functions of the appropriate national authority [or a strategic highways company]¹ (in its capacity as a traffic authority or highway authority).

(3) In subsection (2) “the relevant road network” means—

- (a) the network of relevant roads in England (in the case of traffic officers designated by, or under an authorisation given by, the Secretary of State); or
- (b) the network of relevant roads in Wales (in the case of traffic officers designated by, or under an authorisation given by, the Assembly).

(4) Traffic officers shall have such special powers (for use in connection with the performance of their duties) as are referred to in section 5(1).

(5) In this Part “relevant road” means a road in England for which the Secretary of State [or a strategic highways company]² is the traffic authority or a road in Wales for which the Assembly is the traffic authority .

Notes

¹ Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.130(2) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

² Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.130(3) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt 1 s. 1-(5): October 4, 2004 in relation to England; May 1, 2009 otherwise (SI 2009/1095 Pt 1 art. 2(a); SI 2004/2380 art. 2(a))

Extent

Pt 1 s. 1-(5): England, Wales

Law In Force

2 Designation of traffic officers

(1) The appropriate national authority may—

- (a) designate individuals as traffic officers; and
- (b) authorise another person to designate individuals as traffic officers.

(2) An authorisation under subsection (1)—

- (a) must be given (and may be varied or withdrawn) in writing; and
- (b) may be given subject to such limitations and conditions as the appropriate national authority thinks appropriate.

(3) The designation of an individual as a traffic officer must be made (and may be withdrawn) in writing.

(4) A designation may provide that it is to remain in force (unless it is withdrawn or otherwise ceases to have effect) for a specified period.

(5) A traffic officer designated under an authorisation must be employed by, or by a person providing services to, the authorised person.

(6) An individual designated under an authorisation shall cease to be a traffic officer if the person who appointed him either withdraws his designation or ceases to be authorised.

(7) The appropriate national authority may direct an authorised person to withdraw immediately the designation of all or any of the individuals who have been designated by that person.

Commencement

Pt 1 s. 2-(7): October 4, 2004 in relation to England; May 1, 2009 otherwise (SI 2009/1095 Pt 1 art. 2(a); SI 2004/2380 art. 2(a))

Extent

Pt 1 s. 2-(7): England, Wales

Jurisdiction and powers of traffic officers

Law In Force

3 Jurisdiction of traffic officers

(1) A traffic officer has jurisdiction—

(a) over any relevant road in England (if he was designated by, or under an authorisation given by, the Secretary of State); or

(b) over any relevant road in Wales (if he was designated by, or under an authorisation given by, the Assembly),

unless his designation provides that this subsection does not apply to him.

(2) If subsection (1) does not apply to a traffic officer, he has jurisdiction only over such relevant roads, or relevant roads of such descriptions, as may be specified in his designation.

Commencement

Pt 1 s. 3-(2): October 4, 2004 in relation to England; May 1, 2009 otherwise (SI 2009/1095 Pt 1 art. 2(a); SI 2004/2380 art. 2(a))

Extent

Pt 1 s. 3-(2): England, Wales

Law In Force

4 Powers to direct traffic officers

(1) A traffic officer shall, when carrying out his duties, comply with any direction of a constable.

(2) Subject to that, a traffic officer designated by an authorised person shall, when carrying out his duties, comply with any direction of the appropriate national authority.

Commencement

Pt 1 s. 4-(2): October 4, 2004 in relation to England; May 1, 2009 otherwise (SI 2009/1095 Pt 1 art. 2(a); SI 2004/2380 art. 2(a))

Extent

Pt 1 s. 4-(2): England, Wales

✔ Law In Force

5 The special powers of a traffic officer

- (1) For the purposes of this Part the special powers of a traffic officer are the following—
- (a) powers conferred by sections 6 and 7;
 - (b) powers conferred by orders under section 8; and
 - (c) powers conferred by or under any other Act which are expressed to be special powers for the purposes of this section.
- (2) The exercise of those powers is subject to the following restrictions.
- (3) Those powers may only be exercised for one or more of the following purposes—
- (a) maintaining or improving the movement of traffic on a relevant road over which the traffic officer has jurisdiction by virtue of section 3;
 - (b) preventing or reducing the effect of anything causing (or which has the potential to cause) congestion or other disruption to the movement of traffic on such a road;
 - (c) avoiding danger to persons or other traffic using such a road (or preventing risks of any such danger arising);
 - (d) preventing damage to, or to anything on or near, such a road;
- or for a purpose incidental to any of those purposes.
- (4) Subject to that, those powers may be exercised—
- (a) on or in relation to any relevant road over which the traffic officer has jurisdiction to act by virtue of section 3; or
 - (b) if the condition specified in subsection (5) is met, on or in relation to any other road in England and Wales.
- (5) The condition is that the traffic officer is acting—
- (a) at the direction of the chief officer of police for the area in which the road is situated;
 - or
 - (b) with the consent of the traffic authority for the road.
- (6) A traffic officer may not exercise his special powers on a road unless he is in uniform.

Commencement

Pt 1 s. 5(1)-(3)(d), (6)-(6): October 4, 2004 in relation to England; May 1, 2009 otherwise (SI 2004/2380 art. 2(a))

Pt 1 s. 5(4)-(4)(b): October 4, 2004 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2004/2380 art. 2(a))

Pt 1 s. 5(5)-(5)(b): October 4, 2004 in relation to England; October 26, 2006 otherwise (SI 2004/2380 art. 2(a))

Extent

Pt 1 s. 5(1)-(6): England, Wales

Law In Force

6 Powers to stop or direct traffic

(1) This section confers the following powers on a traffic officer–

- (a) a power, when the traffic officer is engaged in the regulation of traffic in a road, to direct a person driving or propelling a vehicle–
 - (i) to stop the vehicle, or
 - (ii) to make it proceed in, or keep to, a particular line of traffic;
 - (b) a power, for the purposes of a traffic survey of any description which is being carried out on or in the vicinity of a road, to direct a person driving or propelling a vehicle–
 - (i) to stop the vehicle, or
 - (ii) to make it proceed in, or keep to, a particular line of traffic, or
 - (iii) to proceed to a particular point on or near the road on which the vehicle is being driven or propelled;
- (subject to the restriction in section 35(3) of the Road Traffic Act 1988 (c. 52));
- (c) a power, when the traffic officer is engaged in the regulation of vehicular traffic in a road, to direct persons on foot (or such persons and other traffic) to stop;
 - (d) a power to direct a person driving a mechanically propelled vehicle, or riding a cycle, on a road to stop the vehicle or cycle.

(2) In section 35 of the Road Traffic Act 1988 (drivers to comply with traffic directions)–

- (a) in subsection (1)–
 - (i) after “a constable” there is inserted “or traffic officer”;
 - (ii) after “duty” there is inserted “or the traffic officer (as the case may be)”;
- (b) in subsection (2)(b) after “constable” there is inserted “or traffic officer”.

(3) In section 37 of that Act (directions to pedestrians)–

- (a) after “uniform” there is inserted “or traffic officer”;
- (b) after “duty” there is inserted “or the traffic officer (as the case may be)”.

(4) In section 163 of that Act (power of police to stop vehicles), in subsections (1) and (2) after “uniform” there is inserted “or a traffic officer”.

(5) In Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (c. 53) (prosecution and punishment of offences under the Traffic Acts), in column 5 of the entry relating to section 35 of the Road Traffic Act 1988 after “constable” there is inserted “, traffic officer”.

Commencement

Pt 1 s. 6-(5): October 4, 2004 in relation to England; May 1, 2009 otherwise (SI 2009/1095 Pt 1 art. 2(a); SI 2004/2380 art. 2(a))

Extent

Pt 1 s. 6-(5): England, Wales

Law In Force

7 Powers to place temporary traffic signs

(1) A traffic officer has the powers of a constable under section 67(1) of the Road Traffic Regulation Act 1984 (c. 27) (power in the case of emergencies and temporary obstructions etc. to place and temporarily maintain traffic signs on a road or on any structure on a road).

(2) The references in section 67(1) and (2) to powers conferred by subsection (1) of that section include a reference to the corresponding powers of a traffic officer by virtue of this section.

Commencement

Pt 1 s. 7-(2): October 4, 2004 in relation to England; May 1, 2009 otherwise (SI 2009/1095 Pt 1 art. 2(a); SI 2004/2380 art. 2(a))

Extent

Pt 1 s. 7-(2): England, Wales

Law In Force

8 Power to confer further special powers on traffic officers

(1) The appropriate national authority may by order made by statutory instrument confer further special powers on traffic officers.

(2) The national authority may not confer a further special power on traffic officers unless it is satisfied that the power is necessary for the purpose of facilitating the performance of any duties which may be assigned to traffic officers.

(3) The order may—

- (a) provide for the enforcement of any special power conferred by the order (whether by the creation of a summary offence or otherwise);
- (b) make supplemental, incidental, transitional or consequential provision (including provision amending any Act or subordinate legislation).

(4) An order under this section may not be made by the Secretary of State unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

Commencement

Pt 1 s. 8-(4): October 4, 2004 in relation to England; May 1, 2009 otherwise (SI 2009/1095 Pt 1 art. 2(a); SI 2004/2380 art. 2(a))

Extent

Pt 1 s. 8-(4): England, Wales

Law In Force

9 Removal of certain vehicles by traffic officers

(1) The power to make regulations under section 99 of the Road Traffic Regulation Act 1984 (c. 27) includes, in relation to the removal of vehicles by traffic officers, power to make consequential provision.

(2) The provision which may be made by virtue of subsection (1) includes in particular provision—
(a) amending, or
(b) applying in relation to vehicles removed by traffic officers (with or without modifications),
any provision of sections 100 to 102 of that Act (disposal of vehicles removed under section 99).

Commencement

Pt 1 s. 9-(2)(b): October 4, 2004 in relation to England; May 1, 2009 otherwise (SI 2009/1095 Pt 1 art. 2(a); SI 2004/2380 art. 2(a))

Extent

Pt 1 s. 9-(2)(b): England, Wales

Miscellaneous and supplementary

Law In Force

10 Offences

(1) A person who assaults a traffic officer in the execution of his duties is guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 5 on the standard scale (or both).

(2) A person who resists or wilfully obstructs a traffic officer in the execution of his duties is guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 3 on the standard scale (or both).

(3) A person who, with intent to deceive—
(a) impersonates a traffic officer,

(b) makes any statement or does any act calculated falsely to suggest that he is a traffic officer, or

(c) makes any statement or does any act calculated falsely to suggest that he has powers as a traffic officer that exceed the powers he actually has,

is guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 5 on the standard scale (or both).

(4) A person to whom this subsection applies who fails to give his name and address to a traffic officer in uniform on being required to do so by that officer is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Subsection (4) applies to a person whom the traffic officer reasonably believes to have been the driver of a vehicle at a time of a failure to comply with—

(a) a direction given in relation to that vehicle under a power conferred by section 6, or

(b) the indication given by a traffic sign placed under a power conferred by section 7.

(6) In the case of offences committed before the commencement of section 281(5) of the Criminal Justice Act 2003—

(a) subsections (1) and (3) apply as if for “51 weeks” there were substituted “six months”; and

(b) subsection (2) applies as if for “51 weeks” there were substituted “one month”.

Commencement

Pt 1 s. 10-(6)(b): October 4, 2004 in relation to England; October 26, 2006 otherwise (SI 2006/2826 art. 2(2)(a); SI 2004/2380 art. 2(a))

Extent

Pt 1 s. 10-(6)(b): England, Wales

Law In Force

11 Uniform

[(1) The appropriate national authority shall determine the uniform for traffic officers designated by, or under an authorisation given by, that authority.

(2) The Secretary of State may delegate his or her function under subsection (1) to a strategic highways company.

(3) A delegation under subsection (2) may specify—

(a) the extent to which the function is delegated;

(b) any conditions to which the delegation is subject.

]¹

Notes

¹ Existing s.11 renumbered as s.11(1) and s.11(2) and (3) inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.131 (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt 1 s. 11: October 4, 2004 in relation to England; May 1, 2009 otherwise (SI 2009/1095 Pt 1 art. 2(a); SI 2004/2380 art. 2(a))

Extent

Pt 1 s. 11-(3)(b): England, Wales

Law In Force

12 Power to charge for traffic officer services provided on request

The appropriate national authority [or, as respects England, a strategic highways company]¹ may, at the request of any person, agree to arrange for the services of a traffic officer to be provided to that person subject to the payment of a charge.

Notes

¹ Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.132 (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt 1 s. 12: October 4, 2004 in relation to England; May 1, 2009 otherwise (SI 2009/1095 Pt 1 art. 2(a); SI 2004/2380 art. 2(a))

Extent

Pt 1 s. 12: England, Wales

Law In Force

13 Power to acquire land

In the Highways Act 1980 (c. 66), after section 245 (acquisition of land for buildings etc. required for discharge of functions of highway authority) there is inserted—

“245A Acquisition of land by Secretary of State or Assembly for buildings etc. needed for traffic management purposes

(1) The Secretary of State may acquire land which in his opinion is required for the provision of any buildings or facilities which are needed—

- (a) for use by, or in connection with the activities of, traffic officers in England; or
- (b) for other purposes connected with the management of traffic on highways in England for which he is the highway authority.

(2) The National Assembly for Wales may acquire land which in its opinion is required for the provision of any buildings or facilities which are needed—

- (a) for use by, or in connection with the activities of, traffic officers in Wales; or
- (b) for other purposes connected with the management of traffic on highways in Wales for which it is the highway authority.”

Commencement

Pt 1 s. 13: October 4, 2004 in relation to England except for the purpose specified in SI 2004/2380 art.2(b); May 1, 2009 otherwise (SI 2009/1095 Pt 1 art. 2(b); SI 2004/2380 art. 2(b))

Extent

Pt 1 s. 13: England, Wales

Law In Force

14 Financial assistance to authorised persons

The appropriate national authority may give financial assistance to an authorised person, in such form and on such terms as it considers appropriate, in respect of the traffic officers designated by that person (including financial assistance in respect of equipment, accommodation or other facilities provided for those traffic officers).

Commencement

Pt 1 s. 14: October 4, 2004 in relation to England; May 1, 2009 otherwise (SI 2009/1095 Pt 1 art. 2(c); SI 2004/2380 art. 2(c))

Extent

Pt 1 s. 14: England, Wales

Law In Force

15 Interpretation of Part 1

In this Part–

“the appropriate national authority” means–

- (a) the Secretary of State, as respects England; and
- (b) the Assembly, as respects Wales;

“the Assembly” means the National Assembly for Wales;

“authorised person” means a person who is authorised under section 2;

“designation” means designation as a traffic officer under section 2;

“relevant road” has the meaning given by section 1(5);

“road” means any length of highway or of any other road to which the public has access, and includes bridges over which a road passes;

[“strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2015;]¹

“traffic authority” has same meaning as in the Road Traffic Regulation Act 1984 (c. 27);

“traffic officer” means an individual designated under section 2.

Notes

¹ Definition inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.133 (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt 1 s. 15- definition of "traffic officer": October 4, 2004 in relation to England; May 1, 2009 otherwise (SI 2009/1095 Pt 1 art. 2(c); SI 2004/2380 art. 2(c))

Extent

Pt 1 s. 15- definition of "traffic officer": England, Wales

PART 2**NETWORK MANAGEMENT BY LOCAL TRAFFIC AUTHORITIES [AND STRATEGIC HIGHWAYS COMPANIES]¹**

Notes

¹ Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.134 (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

General duties relating to network management

Law In Force

16 The network management duty

(1) It is the duty of a local traffic authority [or a strategic highways company (“the network management authority”)]¹ to manage their road network with a view to achieving, so far as may be reasonably practicable having regard to their other obligations, policies and objectives, the following objectives–

- (a) securing the expeditious movement of traffic on the authority's road network; and
- (b) facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority.

(2) The action which the authority may take in performing that duty includes, in particular, any action which they consider will contribute to securing–

- (a) the more efficient use of their road network; or
- (b) the avoidance, elimination or reduction of road congestion or other disruption to the movement of traffic on their road network or a road network for which another authority is the traffic authority;

and may involve the exercise of any power to regulate or co-ordinate the uses made of any road (or part of a road) in the road network (whether or not the power was conferred on them in their capacity as a traffic authority).

(3) In this Part “network management duty”, in relation to a [network management]² authority, means their duty under this section.

Notes

- ¹ Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.135(2) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)
- ² Words substituted by Infrastructure Act 2015 c. 7 Sch.1(2) para.135(3) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt 2 s. 16-(3): January 4, 2005 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2006/2826 art. 2(2)(b); SI 2004/3110 art. 2(a))

Extent

Pt 2 s. 16-(3): England, Wales

Law In Force

17 Arrangements for network management

- (1) A [network management]¹ shall make such arrangements as they consider appropriate for planning and carrying out the action to be taken in performing the network management duty.
- (2) The arrangements must include provision for the appointment of a person (to be known as the “traffic manager”) to perform such tasks as the authority consider will assist them to perform their network management duty.
- (3) The traffic manager may (but need not) be an employee of the authority.
- (4) The arrangements must include provision for establishing processes for ensuring (so far as may be reasonably practicable) that the authority–
- (a) identify things (including future occurrences) which are causing, or which have the potential to cause, road congestion or other disruption to the movement of traffic on their road network; and
 - (b) consider any possible action that could be taken in response to (or in anticipation of) anything so identified;
- but nothing in this subsection is to be taken to require the identification or consideration of anything appearing to have only an insignificant effect (or potential effect) on the movement of traffic on their road network.
- (5) The arrangements must include provision for ensuring that the authority–
- (a) determine specific policies or objectives in relation to different roads or classes of road in their road network;
 - (b) monitor the effectiveness of–
 - (i) the authority's organisation and decision-making processes; and
 - (ii) the implementation of their decisions; and
 - (c) assess their performance in managing their road network.
- (6) The authority must keep under review the effectiveness of the arrangements they have in place under this section.

Notes

¹ Words substituted by Infrastructure Act 2015 c. 7 Sch.1(2) para.136 (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt 2 s. 17-(6): January 4, 2005 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2006/2826 art. 2(2)(b); SI 2004/3110 art. 2(a))

Extent

Pt 2 s. 17-(6): England, Wales

Law In Force

18 Guidance to [network management]¹ authorities

(1) The appropriate national authority may publish guidance to [network management]¹ authorities about the techniques of network management or any other matter relating to the performance of the duties imposed by sections 16 and 17.

(2) In performing those duties a [network management]¹ authority shall have regard to any such guidance.

Notes

¹ Words substituted by Infrastructure Act 2015 c. 7 Sch.1(2) para.137 (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt 2 s. 18-(2): January 4, 2005 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2006/2826 art. 2(2)(b); SI 2004/3110 art. 2(a))

Extent

Pt 2 s. 18-(2): England, Wales

Law In Force

19 Power to require information relating to network management

(1) The appropriate national authority may direct a [network management]¹ authority to provide it, within a specified period, with specified information connected with any aspect of the performance of their duties under sections 16 and 17.

(2) The information that may be specified in such a direction—

(a) must be information which the authority have in their possession or can reasonably be expected to acquire; and

(b) includes, in particular, information relating to—

(i) the management of a [network management]¹ authority's road network; or

(ii) the use of their road network by different kinds of traffic or the effects of that use.

(3) A direction under this section may be given to two or more [network management]¹ authorities or to [network management]¹ authorities of a description specified in the direction.

(4) A direction under this section given to a London authority must be copied to the Mayor.

Notes

¹ Words substituted by Infrastructure Act 2015 c. 7 Sch.1(2) para.138 (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt 2 s. 19-(4): January 4, 2005 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2006/2826 art. 2(2)(b); SI 2004/3110 art. 2(a))

Extent

Pt 2 s. 19-(4): England, Wales

Enforcement of network management duties

Law In Force

20 Intervention notices

(1) If the appropriate national authority considers that a [network management]¹ authority may be failing properly to perform any of their duties under sections 16 and 17 it may give a notice stating that it is of that opinion (an “intervention notice”) to the authority.

(2) An intervention notice must—

(a) give brief particulars of the grounds for giving the notice; and

(b) offer the [network management]¹ authority the opportunity (within a specified period) to make representations or proposals about any matter raised by the notice.

(3) The notice may also require the [network management]¹ authority to provide the national authority, within the period specified under subsection (2)(b), with specified information.

(4) Any information specified in the notice must be information that the national authority considers will assist it in deciding what further action (if any) to take.

(5) The Secretary of State shall consult the Mayor before giving an intervention notice to a London authority and, if such a notice is given, shall give him a copy of it.

Notes

¹ Words substituted by Infrastructure Act 2015 c. 7 Sch.1(2) para.139 (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt 2 s. 20-(5): January 4, 2005 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2006/2826 art. 2(2)(b); SI 2004/3110 art. 2(a))

Extent

Pt 2 s. 20-(5): England, Wales

Law In Force

21 Intervention orders

(1) If the appropriate national authority is satisfied that a [network management]¹ authority are failing properly to perform any duty under sections 16 and 17 it may, by order made by statutory instrument (an “intervention order”), make provision for or in connection with the appointment of a traffic director.

(2) In this Part “traffic director” means a person appointed by the national authority with such objectives as the national authority considers will secure that the duty in question is properly performed.

(3) An intervention order providing for the appointment of a traffic director must (among other things)–

- (a) state that the national authority is satisfied as mentioned in subsection (1);
- (b) give brief particulars of the grounds for appointing a traffic director;
- (c) set out the objectives of the traffic director; and
- (d) confer such general powers on the traffic director as the national authority considers appropriate for achieving those objectives.

(4) But such an order may not be made unless–

- (a) reasonable notice of the grounds for appointing a traffic director has been given to the [network management]¹ authority in an intervention notice; and
- (b) the period specified in the notice under section 20(2)(b) has expired;

but if that period has expired an order may be made whether or not the [network management]¹ authority have complied with any requirements specified under section 20(3).

(5) The general powers which may be conferred on the traffic director are powers authorising him–

- (a) to monitor any matter;
- (b) to report on any matter;
- (c) to intervene in activities of the [network management]¹ authority; and
- (d) to carry out functions of the [network management]¹ authority.

The general powers are explained further in sections 23 to 25.

(6) The order may require the traffic director to carry out functions of the [network management]¹ authority.

(7) The order may–

- (a) limit the scope of any general powers conferred on the traffic director or any duty imposed under subsection (6);
- (b) confer ancillary powers on the traffic director;

- (c) provide for the circumstances in which any general or ancillary power may (or may not) be exercised;
- (d) impose conditions on the exercise of any general or ancillary power;
- (e) make incidental or supplementary provision;
- (f) make different provision for different circumstances.

(8) For the purposes of subsection (7) “ancillary power” means a power to do anything calculated to facilitate (or to be conducive or incidental to)–

- (a) the exercise by the traffic director of his general powers; or
- (b) the performance of any duty imposed on him under subsection (6),

including, in particular, power to require the [network management]¹ authority to provide him with information and assistance .

(9) The appropriate national authority shall consult the [network management]¹ authority before making an intervention order which makes further provision in connection with the appointment of a traffic director under an earlier intervention order.

(10) The Secretary of State shall consult the Mayor before making an intervention order in relation to a London authority.

Notes

- ¹ Words substituted by Infrastructure Act 2015 c. 7 Sch.1(2) para.140 (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt 2 s. 21-(10): January 4, 2005 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2006/2826 art. 2(2)(b); SI 2004/3110 art. 2(a))

Extent

Pt 2 s. 21-(10): England, Wales

Law In Force

22 Appointment of traffic director: supplementary

(1) Where by virtue of an intervention order a traffic director is to be appointed in relation to a [network management]¹ authority–

- (a) any person (including the national authority making the order, another [network management]¹ authority, a Passenger Transport Executive or any other public authority) may be appointed;
- (b) the appointment may be made on such terms as that national authority may consider appropriate; and
- (c) the appointment may be revoked by that national authority.

(2) The powers conferred by subsection (1) have effect subject to the provisions of the order.

(3) Notice of any appointment of a traffic director (or the revocation of an appointment) shall be given to the [network management]¹ authority and, in the case of a London authority, to the Mayor.

(4) Any such notice of an appointment must be given before the traffic director begins to carry out any of his duties.

Notes

¹ Words substituted by Infrastructure Act 2015 c. 7 Sch.1(2) para.141 (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt 2 s. 22-(4): January 4, 2005 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2006/2826 art. 2(2)(b); SI 2004/3110 art. 2(a))

Extent

Pt 2 s. 22-(4): England, Wales

Law In Force

23 Monitoring and reporting

(1) The general powers which may be conferred by an intervention order under section 21(5)(a) are powers to monitor anything connected with the performance by the [network management]¹ authority of their duties under 16 and 17, including the use of their road network by different kinds of traffic or the effects of that use.

(2) The general powers which may be conferred by an intervention order under section 21(5)(b) are powers to make reports about–

(a) anything connected with the carrying out of the traffic director's objectives; or

(b) anything connected with the performance by the [network management]¹ authority of their duties under sections 16 and 17, including the use of their road network by different kinds of traffic or the effects of that use.

(3) The order may provide for such reports to be made to the appropriate national authority or the [network management]¹ authority (or both).

Notes

¹ Words substituted by Infrastructure Act 2015 c. 7 Sch.1(2) para.142 (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt 2 s. 23-(3): January 4, 2005 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2006/2826 art. 2(2)(b); SI 2004/3110 art. 2(a))

Extent

Pt 2 s. 23-(3): England, Wales

✔ Law In Force

24 Intervention in activities of [network management]¹ authority

(1) This section explains the general powers which may be conferred by an intervention order under section 21(5)(c).

(2) Such powers may authorise the traffic director to give to the [network management]¹ authority directions with respect to the exercise of any specified function, including in particular directions—

- (a) to exercise (or to cease or refrain from exercising) such a function;
- (b) as to the way in which such a function is (or is not) to be exercised;
- (c) as to the policies to be adopted in the exercise of any function.

(3) The order may specify any function of the authority (whether or not conferred in their capacity as a traffic authority) the exercise of which appears to the appropriate national authority to be capable of contributing to, or interfering with, the achievement of the traffic director's objectives.

(4) Such powers may also authorise the traffic director, where it appears to him that the authority has failed to comply with a direction—

- (a) to take any steps which still remain to be taken by the authority to comply with the direction, and
- (b) recover from the authority as a civil debt the costs reasonably incurred by him in taking those steps.

(5) Anything done by the traffic director under subsection (4)(a) is to be treated as having been done by the authority.

Notes

¹ Words substituted by Infrastructure Act 2015 c. 7 Sch.1(2) para.143 (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt 2 s. 24-(5): January 4, 2005 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2006/2826 art. 2(2)(b); SI 2004/3110 art. 2(a))

Extent

Pt 2 s. 24-(5): England, Wales

✔ Law In Force

25 Exercise of [network management]¹ authority functions

(1) This section explains the general powers which may be conferred by an intervention order under section 21(5)(d) and the duty which may be imposed under section 21(6).

(2) The order may authorise or require the traffic director to take over from the [network management]² authority the exercise of any specified function.

(3) The order may specify any function of the authority (whether or not conferred in their capacity as a traffic authority) the exercise of which appears to the appropriate national authority to be capable of contributing to, or interfering with, the achievement of the traffic director's objectives.

- (4) The order may require the authority to take action—
- (a) to co-ordinate their activities with those of the traffic director in the exercise of functions specified under subsection (2);
 - (b) to co-operate with the traffic director in the exercise of such functions.
- (5) Anything done by the traffic director in the exercise of a specified function is to be treated as having been done by the authority.

Notes

- ¹ Words substituted by Infrastructure Act 2015 c. 7 Sch.1(2) para.144(3) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)
- ² Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.144(2) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt 2 s. 25-(5): January 4, 2005 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2006/2826 art. 2(2)(b); SI 2004/3110 art. 2(a))

Extent

Pt 2 s. 25-(5): England, Wales

Law In Force

26 Application of sections 20 to 25 to [network management]¹ authorities exercising functions jointly

- (1) The appropriate national authority may by order made by statutory instrument make provision for the application of sections 20 to 25 (with or without modifications) in cases where to any extent the performance of the duties under sections 16 and 17 is carried out jointly by two or more [network management]¹ authorities.
- (2) A statutory instrument containing an order under this section made by the Secretary of State is subject to annulment in pursuance of a resolution by either House of Parliament.

Notes

- ¹ Words substituted by Infrastructure Act 2015 c. 7 Sch.1(2) para.145 (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt 2 s. 26-(2): January 4, 2005 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2006/2826 art. 2(2)(b); SI 2004/3110 art. 2(a))

Extent

Pt 2 s. 26-(2): England, Wales

✔ Law In Force

27 Criteria for making intervention orders

(1) The appropriate national authority shall give, in accordance with subsection (2), guidance about the criteria which it proposes to apply for the purpose of deciding whether to give an intervention notice or make an intervention order.

(2) The guidance shall be appended to an order made by the authority by statutory instrument.

(3) A statutory instrument containing an order under subsection (2) made by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement

Pt 2 s. 27-(3): January 4, 2005 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2006/2826 art. 2(2)(b); SI 2004/3110 art. 2(a))

Extent

Pt 2 s. 27-(3): England, Wales

✔ Law In Force

28 Guidance to traffic directors

(1) The appropriate national authority may give guidance to traffic directors in relation to the performance of their duties.

(2) Such guidance may be general or given to a particular traffic director.

(3) In carrying out his duties a traffic director shall have regard to any guidance under this section which is applicable to him.

(4) The appropriate national authority shall publish any guidance given under this section.

Commencement

Pt 2 s. 28-(4): January 4, 2005 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2006/2826 art. 2(2)(b); SI 2004/3110 art. 2(a))

Extent

Pt 2 s. 28-(4): England, Wales

✔ Law In Force

29 Traffic directors in London

(1) Subsections (2) to (4) apply where a traffic director is appointed in relation to a London authority.

(2) A copy of any report made by a traffic director to the authority shall be given to the Mayor.

(3) In carrying out his duties the traffic director need not comply with, or have regard to, any directions or guidance given by the Mayor under Part 4 of the Greater London Authority Act 1999 (c. 29).

(4) The duty to comply with a direction given by the traffic director prevails, to the extent of any inconsistency, over the duty to comply with, or have regard to, any direction or guidance mentioned in subsection (3).

(5) Subsections (6) to (8) apply where a traffic director is appointed in relation to Transport for London.

(6) If the traffic director—

(a) exercises the power of Transport for London under subsection (3) of section 301A of the Highways Act 1980 (c. 66) to object to a proposal and does not withdraw that objection, or

(b) directs Transport for London to exercise the power to object to a proposal and not to withdraw the objection,

that section has effect as if subsections (3)(d) and (4) were omitted.

(7) If the traffic director—

(a) exercises the power of Transport for London under subsection (3) of section 121B of the Road Traffic Regulation Act 1984 (c. 27) to object to a proposal and does not withdraw that objection, or

(b) directs Transport for London to exercise the power to object to a proposal and not to withdraw the objection,

that section has effect as if subsections (3)(d) and (4) were omitted.

(8) While the intervention order to which the appointment relates is in force the Mayor may not, without the consent of the traffic director, issue a direction under—

(a) section 301A(9) of the Highways Act 1980, or

(b) section 121B(9) of the Road Traffic Regulation Act 1984,

dispensing with any of the requirements mentioned there (whether or not by varying an existing direction).

Commencement

Pt 2 s. 29-(8)(b): January 4, 2005 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2006/2826 art. 2(2)(b); SI 2004/3110 art. 2(a))

Extent

Pt 2 s. 29-(8)(b): England, Wales

Law In Force

30 Recovery of costs from [network management]¹ authorities

(1) This section applies where a traffic director has been appointed in respect of a [network management]¹ authority.

(2) The appropriate national authority may recover from the [network management]¹ authority such sum or sums as it may consider appropriate.

(3) The amount recovered must not exceed the total expenditure of the national authority which is attributable to the appointment of the traffic director (including expenditure towards any costs incurred by the traffic director which are not met from any other source).

Notes

¹ Words substituted by Infrastructure Act 2015 c. 7 Sch.1(2) para.146 (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt 2 s. 30-(3): January 4, 2005 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2006/2826 art. 2(2)(b); SI 2004/3110 art. 2(a))

Extent

Pt 2 s. 30-(3): England, Wales

Law In Force

31 Interpretation of Part 2

In this Part–

“appropriate national authority” means–

- (a) the Secretary of State, as respects England; and
- (b) the National Assembly for Wales, as respects Wales;

“intervention notice” means a notice under section 20;

“intervention order” means an order under section 21;

“local traffic authority” means a traffic authority other than the Secretary of State [, a strategic highways company]¹ or the National Assembly for Wales ;

“London authority” means Transport for London, a London borough Council or the Common Council of the City of London;

“Mayor” means the Mayor of London;

“road” means any length of highway or of any other road to which the public has access, and includes bridges over which a road passes;

“road network” , in relation to [a strategic highways company or]² a local traffic authority, means the network of roads for which [the company or]³ the authority is the traffic authority ;

“traffic” includes pedestrians;

“traffic authority” has the same meaning as in the Road Traffic Regulation Act 1984 (c. 27); [“network management authority” has the meaning given in section 16(1);]⁴

“network management duty” has the meaning given in section 16(3).

Notes

¹ Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.147(2) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

² Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.147(3)(a) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

³ Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.147(3)(b) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

- ⁴ Definition inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.147(4) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt 2 s. 31- definition of "network management duty": January 4, 2005 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2006/2826 art. 2(2)(b); SI 2004/3110 art. 2(a))

Extent

Pt 2 s. 31- definition of "network management duty": England, Wales

PART 3

PERMIT SCHEMES

Law In Force

32 Meaning of “permit scheme”

(1) Any reference in this Part to a permit scheme is a reference to a scheme which is designed to control the carrying out of specified works in specified streets in a specified area.

(2) A permit scheme may (in particular) include provision–

- (a) for or in connection with requiring a permit to be obtained before specified works are carried out (including provision as to the persons who are required to obtain permits),
- (b) for or in connection with the issue of permits (including provision with respect to applications for permits, provision for cases in which there is to be an entitlement to the issue of a permit and provision with respect to cases in which permits are to be deemed to be issued),
- (c) as to cases in which specified works may be carried out without a permit,
- (d) for or in connection with the imposition of conditions which are to apply in relation to the carrying out of specified works (including provision for or in connection with the attachment of such conditions to permits),
- (e) for or in connection with the review or variation of permits or such conditions (including provision with respect to applications for such variations).

(3) In this section “specified” means specified, or of a description specified, in a permit scheme.

Commencement

Pt 3 s. 32-(3): December 1, 2007 in relation to England; March 31, 2008 in relation to Wales (SI 2007/3174 Sch. 1 para. 1, Pt 1 art. 2)

Extent

Pt 3 s. 32-(3): England, Wales

✔ Law In Force

33 Preparation of permit schemes

[(1) A permit scheme may be prepared by—

- (a) a strategic highways company,
- (b) a local highway authority in England, or
- (c) such a company or authority acting together with one or more other such companies or authorities.

(1A) A local highway authority in Wales, or two or more such authorities acting together, may prepare and submit to the Welsh Ministers a permit scheme.]¹

[(2) The Secretary of State may direct—

- (a) a strategic highways company,
- (b) a local highway authority in England, or
- (c) such a company or authority acting together with one or more other such companies or authorities,

to prepare and give effect to a permit scheme which takes such form as the Secretary of State may direct.

(2A) The Welsh Ministers may direct a local highway authority in Wales, or two or more such authorities acting together, to prepare and submit to them a permit scheme which takes such form as the Welsh Ministers may direct.]²

(3) The appropriate national authority, in its capacity as a highway authority, may prepare a permit scheme.

(4) The Secretary of State, in his capacity as the person with responsibility for the management and control of streets in the Royal Parks, may prepare a permit scheme in respect of any such streets.

(5) Those preparing permit schemes—

- (a) must comply with permit regulations, and
- (b) must have regard to any guidance which may be issued by the appropriate national authority.

Notes

¹ S.33(1) and (1A) substituted for s.33(1) by Deregulation Act 2015 c. 20 Sch.10(2) para.5(2) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)

² S.33(2) and (2A) substituted for s.33(2) by Deregulation Act 2015 c. 20 Sch.10(2) para.5(3) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)

Commencement

Pt 3 s. 33-(5)(b): April 1, 2008 in relation to England; March 31, 2008 in relation to Wales (SI 2007/3174 Sch. 1 para. 1, Pt 1 art. 2)

Extent

Pt 3 s. 33-(5)(b): England, Wales

✔ Law In Force

[33A Implementation of permit schemes of strategic highway companies and local highway authorities in England

- (1) This section applies to a permit scheme prepared in accordance with section 33(1) or (2) by—
- (a) a strategic highways company,
 - (b) a local highway authority in England, or
 - (c) such a company or authority acting together with one or more other such companies or authorities.
- (2) The scheme shall not have effect in the area of a participating authority unless the authority gives effect to it by order.
- (3) For the purposes of subsection (2) a local highway authority or a strategic highways company is a “participating authority” in relation to a permit scheme if it is the highway authority for any of the streets in which the scheme is to control the carrying out of works.
- (4) An order under subsection (2)—
- (a) must set out the scheme and specify the date on which the scheme is to come into effect, and
 - (b) may (in accordance with permit regulations) include provisions which disapply or modify enactments to the extent specified in the order.

] ¹

Notes

- ¹ Added by Deregulation Act 2015 c. 20 Sch.10(2) para.6 (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)

Extent

Pt 3 s. 33A(1)-(4)(b): England, Wales

✔ Law In Force

34 Implementation of local highway authority permit schemes [: Wales] ¹

- (1) This section applies where a permit scheme is prepared [by a local highway authority in Wales] ² and submitted to the [Welsh Ministers] ³ in accordance with [section 33(1A) or (2A)] ⁴.
- (2) The [Welsh Ministers] ⁵ may approve the scheme with or without modifications.
- (3) Where [the Welsh Ministers approve] ⁶ the scheme with modifications, references in subsections (4) and (5) to the scheme are to be read as references to the scheme as so modified.
- (4) The scheme shall not have effect unless [the Welsh Ministers by order give] ⁷ effect to it.
- (5) An order under subsection (4)—
- (a) must set out the scheme and specify the date on which the scheme is to come into effect, and
 - (b) may (in accordance with permit regulations) include provisions which disapply or modify enactments to the extent specified in the order.

Notes

- ¹ Word inserted by Deregulation Act 2015 c. 20 Sch.10(2) para.7(6) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)
- ² Words inserted by Deregulation Act 2015 c. 20 Sch.10(2) para.7(2)(a) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)
- ³ Words substituted by Deregulation Act 2015 c. 20 Sch.10(2) para.7(2)(b) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)
- ⁴ Words substituted by Deregulation Act 2015 c. 20 Sch.10(2) para.7(2)(c) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)
- ⁵ Word substituted by Deregulation Act 2015 c. 20 Sch.10(2) para.7(3) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)
- ⁶ Words substituted by Deregulation Act 2015 c. 20 Sch.10(2) para.7(4) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)
- ⁷ Words substituted by Deregulation Act 2015 c. 20 Sch.10(2) para.7(5) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)

Commencement

Pt 3 s. 34-(5)(b): April 1, 2008 in relation to England; March 31, 2008 in relation to Wales (SI 2007/3174 Sch. 1 para. 1, Pt 1 art. 2)

Extent

Pt 3 s. 34-(5)(b): England, Wales

Law In Force

35 Implementation of other permit schemes

- (1) This section applies where a permit scheme is prepared in accordance with section 33(3) or (4).
- (2) The scheme shall not have effect unless the appropriate national authority by order gives effect to it.
- (3) An order under subsection (2)–
 - (a) must set out the scheme and specify the date on which the scheme is to come into effect, and
 - (b) may (in accordance with permit regulations) include provisions which disapply or modify enactments to the extent specified in the order.

Commencement

Pt 3 s. 35-(3)(b): April 1, 2008 in relation to England; March 31, 2008 in relation to Wales (SI 2007/3174 Sch. 1 para. 1, Pt 1 art. 2)

Extent

Pt 3 s. 35-(3)(b): England, Wales

Law In Force

[36 Variation and revocation of permit schemes

(1) A local highway authority in England may by order vary or revoke a permit scheme to the extent that it has effect in the area of the authority by virtue of an order made by the authority under section 33A(2).

(2) The Secretary of State may direct a local highway authority in England to vary or revoke a permit scheme by an order under subsection (1).

(3) An order made by a local highway authority under subsection (1) may vary or revoke an order made by the authority under section 33A(2), or an order previously made by the authority under subsection (1).

(4) A strategic highways company may by order vary or revoke a permit scheme to the extent that it has effect, by virtue of an order made by the company under section 33A(2), in the area in respect of which the company is appointed.

(5) The Secretary of State may direct a strategic highways company to vary or revoke a permit scheme by an order under subsection (4).

(6) An order made by a strategic highways company under subsection(4) may vary or revoke an order made by the company under section 33A(2), or an order previously made by the company under subsection (4).

(7) The Welsh Ministers may by order vary or revoke any permit scheme which for the time being has effect by virtue of an order made by them under section 34(4) or 35(2).

(8) An order under subsection (7) may vary or revoke an order made by the Welsh Ministers under section 34(4) or 35(2), or an order previously made under subsection (7).

(9) The Secretary of State may by order vary or revoke any permit scheme which for the time being has effect by virtue of an order made by the Secretary of State under section 35(2).

(10) An order under subsection (9) may vary or revoke an order made by the Secretary of State under section 35(2), or an order previously made under subsection (9).

(11) An order under subsection (7) or (9) may relate to one or more permit schemes.

(12) An order under this section may (in accordance with permit regulations) include provisions which disapply or modify enactments to the extent specified in the order.

]¹

Notes

- ¹ Substituted by Deregulation Act 2015 c. 20 Sch.10(2) para.8 (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)

Commencement

Pt 3 s. 36-(2)(c): April 1, 2008 in relation to England; March 31, 2008 in relation to Wales (SI 2007/3174 Sch. 1 para. 1, Pt 1 art. 2)

Extent

Pt 3 s. 36-(12): England, Wales

Law In Force

37 Permit regulations

(1) The [Secretary of State]¹ may by regulations (“permit regulations”) make provision with respect to the content, preparation, [...] operation, variation or revocation of permit schemes [prepared by local highway authorities in England or strategic highways companies under section 33(1) or (2) or by the Secretary of State under section 33(3) or (4)]³.

[(1A) The Welsh Ministers may by regulations (“permit regulations”) make provision with respect to the content, preparation, submission, approval, operation, variation or revocation of permit schemes prepared by local highway authorities in Wales under section 33(1A) or (2A) or by the Welsh Ministers under section 33(3).]⁴

(2) Permit regulations may–

- (a) set out procedural provisions with which those preparing permit schemes must comply,
- (b) set out standard provisions which may or must be included in a permit scheme,
- (c) make provision as to the publicity to be given to permit schemes.

(3) Permit regulations may make provision–

- (a) with respect to any of the matters mentioned in section 32(2) (including provision as to the conditions or types of conditions which may be imposed by virtue of section 32(2)(d)),
- (b) for the purpose of limiting the streets, or type of streets, which may be the subject of a permit scheme.

[(3A) Permit regulations made by the Secretary of State may impose requirements for the purpose of securing that permit schemes are kept under review.]⁵

(4) Permit regulations may make provision–

- (a) as to the criteria to be taken into account in the case of decisions with respect to the issue, review or variation of permits or decisions with respect to the imposition, review or variation of conditions,
- (b) for or in connection with the determination, or facilitating the determination, of disputes (including provision with respect to the appointment of persons to determine, or facilitate the determination of, disputes),
- (c) for or in connection with appeals (including provision with respect to the appointment of persons to hear appeals),

- (d) as to the action which may be taken if works are carried out without a permit or if any conditions are not complied with,
 - (e) for or in connection with the creation, in prescribed cases (including prescribed cases where works are carried out without a permit or in breach of any conditions), of a criminal offence triable summarily and punishable with a fine not exceeding level 5 on the standard scale,
 - (f) for or in connection with excluding or limiting the liability of prescribed undertakers in prescribed cases.
- (5) Provision under subsection (4) in respect of adjudication may not be made without the consent of the Lord Chancellor.
- (6) Permit regulations may make provision for or in connection with the giving of fixed penalty notices (including, in particular, provision applying Schedule 4B to the New Roads and Street Works Act 1991 (c. 22), with or without modifications) in relation to any offence created by permit regulations.
- (7) Permit regulations may make provision for or in connection with the payment of a fee in respect of any one or more of the following—
- (a) an application for a permit,
 - (b) the issue of a permit,
 - (c) an application for the variation of a permit or the conditions attached to a permit,
 - (d) the variation of a permit or the conditions attached to a permit.
- (8) Provision made under subsection (7) may include provision as to—
- (a) the amount or maximum amount of any fee,
 - (b) cases in which fees are not to be payable or are to be repaid,
 - (c) cases in which fees may be discounted,
 - (d) the time and manner of making payment of fees,
 - (e) the application of sums paid by way of fees.
- (9) In making provision under subsection (7), the appropriate national authority must try to ensure, so far as is reasonably practicable, that the fees payable in connection with permit schemes do not exceed such costs in connection with permit schemes as may be prescribed.
- (10) For the purposes of subsection (9), the national authority may rely on such estimates (including estimates with respect to the average costs of highway authorities or particular descriptions of highway authority) as the national authority thinks fit.
- (11) Permit regulations may make provision—
- (a) for or in connection with the creation and maintenance of registers of permits,
 - (b) with respect to access to information contained in any such registers (including provision restricting such access),
 - (c) with respect to the keeping of accounts, and the preparation and publication of statements of account, relating to permit schemes.
- (12) Permit regulations may make provision for or in connection with permitting a highway authority, or two or more such authorities acting together, to prepare a permit scheme in respect of streets in a particular area which are maintainable highways notwithstanding that the authority, or those authorities, are not the highway authority for all or any of those streets.
- (13) Permit regulations may set out provisions—

- (a) which disapply or modify enactments, and
- (b) which are to or may apply in the case of permit schemes.

(14) Nothing in subsections (2) to (13) is to be taken as affecting the generality of subsection (1).

Notes

- ¹ Words substituted by Deregulation Act 2015 c. 20 Sch.10(2) para.9(2)(a) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)
- ² Words repealed by Deregulation Act 2015 c. 20 Sch.10(2) para.9(2)(b) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)
- ³ Words inserted by Deregulation Act 2015 c. 20 Sch.10(2) para.9(2)(c) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)
- ⁴ Added by Deregulation Act 2015 c. 20 Sch.10(2) para.9(3) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)
- ⁵ Added by Deregulation Act 2015 c. 20 Sch.10(2) para.9(4) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)

Commencement

Pt 3 s. 37-(14): December 1, 2007 in relation to England; March 31, 2008 in relation to Wales (SI 2007/3174 Sch. 1 para. 1, Pt 1 art. 2)

Extent

Pt 3 s. 37-(14): England, Wales

Law In Force

38 Crown application

(1) This Part and any provisions made under it bind the Crown (but do not affect Her Majesty in her private capacity or in right of Her Duchy of Lancaster or the Duke of Cornwall).

(2) Nothing in subsection (1) is to be construed as authorising the bringing of proceedings for a criminal offence against a person acting on behalf of the Crown.

Commencement

Pt 3 s. 38-(2): April 1, 2008 in relation to England; March 31, 2008 in relation to Wales (SI 2007/3174 Sch. 1 para. 1, Pt 1 art. 2)

Extent

Pt 3 s. 38-(2): England, Wales

✔ Law In Force

39 Interpretation of Part 3

(1) In this Part–

“the appropriate national authority” means–

- (a) the Secretary of State, as respects England, and
- (b) the [Welsh Ministers]¹, as respects Wales;

“condition” is to be construed in accordance with section 32(2);

“enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30));

“fixed penalty notice” means a notice offering a person the opportunity of discharging any liability to conviction for an offence by payment of a penalty;

“highway authority” and “local highway authority” have the same meaning as in the Highways Act 1980 (c. 66);

“maintainable highway” has the same meaning as in Part 3 of the New Roads and Street Works Act 1991 (c. 22);

“permit” is to be construed in accordance with section 32(2);

“permit scheme” is to be construed in accordance with section 32;

“permit regulations” is to be construed in accordance with section 37;

“prescribed” means prescribed, or of a description prescribed, by regulations made by the appropriate national authority;

“Royal Park” means any park to which the Parks Regulation Act 1872 (c. 15) applies (see sections 1 and 3 of the Parks Regulation (Amendment) Act 1926 (c. 36));

[“strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2015;]²

“street” means a street (within the meaning of Part 3 of the New Roads and Street Works Act 1991)–

- (a) which is a maintainable highway, or
- (b) which is situated in a Royal Park;

“street works” has the meaning given by section 48(3) of the New Roads and Street Works Act 1991;

“undertaker” has the same meaning as in Part 3 of that Act;

“works” means–

- (a) prescribed street works, and
- (b) such other works or activities as may be prescribed,

but activities may not be prescribed under paragraph (b) unless they are, or correspond to, activities which are regulated or controlled by the Highways Act 1980.

(2) An order or regulations under this Part–

- (a) may make different provision for different cases or different areas,
- (b) may include incidental, supplemental, consequential or transitional provision or savings.

(3) A power [of the Secretary of State or the Welsh Ministers]³ to make an order or regulations under this Part is exercisable by statutory instrument.

(4) The first permit regulations may not be made by the Secretary of State unless a draft of them has been laid before and approved by a resolution of each House of Parliament.

(5) Subject to that, a statutory instrument containing regulations under this Part made by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.

[(6) A statutory instrument containing regulations under this Part made by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.]⁴

Notes

- ¹ Words substituted by Deregulation Act 2015 c. 20 Sch.10(2) para.10(2)(a) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)
- ² Definition inserted by Deregulation Act 2015 c. 20 Sch.10(2) para.10(2)(b) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)
- ³ Words inserted by Deregulation Act 2015 c. 20 Sch.10(2) para.10(3) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)
- ⁴ Added by Deregulation Act 2015 c. 20 Sch.10(2) para.10(4) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; June 30, 2015 otherwise)

Commencement

Pt 3 s. 39-(5): December 1, 2007 in relation to England; March 31, 2008 in relation to Wales (SI 2007/3174 Sch. 1 para. 1, Pt 1 art. 2)

Extent

Pt 3 s. 39-(6): England, Wales

PART 4

STREET WORKS

Enforcement

Law In Force

40 Increase in penalties for summary offences under 1991 Act

(1) The maximum fine for each offence under a provision of the New Roads and Street Works Act 1991 (c. 22) (in this Part referred to as “the 1991 Act”) listed in column 1 of the table in Schedule 1 is increased from level 3 on the standard scale to the level specified for that provision in column 3 of the table.

(2) Accordingly, in each provision so listed, for “level 3” there is substituted “level 4” or “level 5” (as specified in column 3 of the table).

(3) In section 70(6) of the 1991 Act, for the words from “to a” to the end there is substituted—

“(a) in the case of an offence consisting of a failure to comply with subsection (3) or (4A), to a fine not exceeding level 4 on the standard scale; and
 (b) in any other case, to a fine not exceeding level 5 on that scale.”

(4) In section 74(7B) and 74A(11) of the 1991 Act (maximum fine for offences in regulations in respect of failure to comply with notice requirement) for “level 3” there is substituted “level 4”.

(5) In section 88(6) of the 1991 Act (failure to comply with duties relating to street works affecting the structure of a bridge) for the words from “to a” to the end there is substituted—

“(a) in the case of an offence consisting of a failure to take all reasonably practicable steps to comply with subsection (5)(a), to a fine not exceeding level 4 on the standard scale; and

(b) in any other case, to a fine not exceeding level 5 on that scale.”

Commencement

Pt 4 s. 40(1)-(2), (4)-(5): October 4, 2004 in relation to England; November 26, 2007 in relation to Wales (SI 2004/2380 art. 2(d)(i))

Pt 4 s. 40(3)-(3): October 4, 2004 in relation to England except for the purpose specified in SI 2004/2380 art.2(d)(ii); November 26, 2007 in relation to Wales except for the purpose specified in SI 2007/3174 Sch.1; April 1, 2008 in relation to England and Wales otherwise (SI 2004/2380 art. 2(d)(ii))

Extent

Pt 4 s. 40(1)-(5): England, Wales

Law In Force

41 Fixed penalty offences

(1) After section 95 of the 1991 Act (offences) there is inserted—

“95A Fixed penalties for certain offences under this Part

(1) Any offence under this Part relating to any street works which is listed in the first column of Schedule 4A (and described in general terms in the second column) is a fixed penalty offence for the purposes of this Part.

(2) Offences listed in that Schedule which are committed by virtue of section 166 (offences by bodies corporate and Scottish partnerships) are not fixed penalty offences.

(3) The Secretary of State may by order modify that Schedule so as to provide for offences under this Part relating to any street works to become (or cease to be) fixed penalty offences.

(4) Such an order may not be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

(5) Schedule 4B (which makes provision about fixed penalties for fixed penalty offences) has effect.”

(2) In section 106 of that Act (index for Part 3), the following entry is inserted in the appropriate place—

“fixed penalty offence section 95A(1)”.

(3) After Schedule 4 to that Act there is inserted Schedules 4A and 4B as set out in Schedules 2 and 3 to this Act.

Commencement


Pt 4 s. 41(1)-(1), (3)-(3): June 29, 2007 in relation to England for the purpose of conferring power to make orders as specified in SI 2007/1890 Sch.1; November 26, 2007 in relation to Wales for the purpose of conferring power to make orders as specified in SI 2007/3174 Sch.1; May 12, 2008 otherwise (SI 2007/1890 Pt 1 art. 2)

Pt 4 s. 41(2)-(2): May 12, 2008 in relation to England; May 12, 2008 in relation to Wales (SI 2007/1890 Pt 1 art. 2)

Extent

Pt 4 s. 41(1)-(3): England, Wales

Co-ordination of works by street authority

 Partially In Force

42 Duty of street authority to co-ordinate works

(1) Section 59 of the 1991 Act (general duty of street authority to co-ordinate works) is amended as follows.

(2) In subsection (1) after “purposes)” there is inserted “and the carrying out of relevant activities”.

(3) In subsection (2) after “works” there is inserted “or relevant activities”.

(4) After subsection (6) there is inserted—

“(7) In this section “relevant activities” means any activity, other than the execution of works in the street or the use of the street by traffic (including pedestrians), which—

(a) involves the temporary occupation or use of space in a street;

(b) is subject to regulation by the street authority by virtue of provision made by or under any Act other than this Act; and

(c) is prescribed by regulations made by the Secretary of State.”

Commencement

Pt 4 s. 42-(4): June 29, 2007 in relation to England for the purpose of conferring power to make regulations as specified in SI 2007/1890 Sch.1; November 26, 2007 in relation to Wales for the purpose of conferring power to make regulations as specified in SI 2007/3174 Sch.1; not yet in force otherwise (SI 2007/1890 Sch. 1 para. 1, Pt 1 art. 2)

Extent

Pt 4 s. 42-(4): England, Wales

Direction-making powers

☑ Law In Force

43 Directions relating to timing of street works

(1) Section 56 of the 1991 Act (power to give directions as to timing of street works) is amended as follows.

(2) In subsection (1)–

(a) in paragraph (b), after “at certain times” there is inserted “or on certain days (or at certain times on certain days)”;

(b) after “the times” there is inserted “or days (or both)”.

(3) After subsection (1) there is inserted–

“(1A) Where it appears to a street authority–

(a) that subsisting street works are causing or are likely to cause serious disruption to traffic, and

(b) that the disruption would be avoided or reduced if the works were to continue to be carried out only at certain times or on certain days (or at certain times on certain days),

the authority may give the undertaker such directions as may be appropriate as to the times or days (or both) when the works may or may not continue to be carried out.”

(4) After subsection (3) there is inserted–

“(3A) An undertaker shall be taken not to have failed to fulfil any statutory duty to afford a supply or service if, or to the extent that, his failure is attributable to a direction under this section.”

Commencement

Pt 4 s. 43(1)-(1): January 4, 2005 in relation to England; November 26, 2007 in relation to Wales (SI 2004/3110 art. 2(b))

Pt 4 s. 43(2)-(2)(b), (4)-(4): January 4, 2005 in relation to England; April 1, 2008 in relation to Wales (SI 2004/3110 art. 2(b))

Pt 4 s. 43(3)-(3): April 1, 2008 in relation to England; April 1, 2008 in relation to Wales (SI 2007/1890 Pt 1 art. 2)

Extent

Pt 4 s. 43(1)-(4): England, Wales

✔ Law In Force

44 Directions as to placing of apparatus

In the 1991 Act, after section 56 there is inserted–

“56A Power to give directions as to placing of apparatus

(1) Where–

- (a) an undertaker is proposing to execute street works consisting of the placing of apparatus in a street (“street A”),
- (b) placing the apparatus in street A is likely to cause disruption to traffic, and
- (c) it appears to the street authority that–
 - (i) there is another street (“street B”) in which the apparatus could be placed, and
 - (ii) the conditions in subsection (2) are satisfied,

the authority may by direction require the undertaker not to place the apparatus in street A (but may not require him to place the apparatus in street B).

(2) The conditions referred to in subsection (1)(c) are that–

- (a) disruption to traffic would be avoided or reduced if the apparatus were to be placed in street B;
- (b) placing the apparatus in street B would be a reasonable way of achieving the purpose for which the apparatus is to be placed; and
- (c) it is reasonable to require the undertaker not to place the apparatus in street A.

(3) A direction under this section may be varied or revoked by a further such direction.

(4) The procedure for giving a direction under this section shall be prescribed by the Secretary of State.

(5) The Secretary of State may by regulations make provision for appeals against directions under this section, including provision as to the persons who may determine appeals and the procedure to be followed on an appeal.

(6) An undertaker who executes works in contravention of a direction under this section commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(7) An undertaker shall be taken not to have failed to fulfil any statutory duty to afford a supply or service if, or to the extent that, his failure is attributable to a direction under this section.

(8) The Secretary of State may issue or approve for the purposes of this section a code of practice giving practical guidance as to the exercise by street authorities of the power conferred by this section; and in exercising that power a street authority shall have regard to the code of practice.”


Commencement

Pt 4 s. 44-: June 29, 2007 in relation to England for the purpose of conferring power as specified in SI 2007/1890 Sch.1; November 26, 2007 in relation to Wales for the purpose of conferring power as specified in SI 2007/3174 Sch.1; April 1, 2008 otherwise (SI 2007/1890 Sch. 1 para. 1, Pt 1 art. 2)

Extent

Pt 4 s. 44-: England, Wales

Records and information

 Not Yet In Force

45 The street works register

(1) Section 53 of the 1991 Act (the street works register) is amended as follows.

(2) In subsection (1)–

- (a) after “respect to” (in the second place they appear) there is inserted “(a)”; and
- (b) at the end there is added

“; and

(b) such descriptions of–

- (i) apparatus placed, or proposed to be placed, in the street,
- (ii) builder's skips (within the meaning of section 139 of the Highways Act 1980 (c. 66)), or of building materials, rubbish or other things deposited, or proposed to be deposited, in the street; or
- (iii) scaffolding or other structures which are erected, or proposed to be erected, in the street,

as may be prescribed.”

(3) After subsection (4) there is inserted–

“(4A) In subsection (4) “central register” means a register covering the areas of two or more street authorities.”

(4) After subsection (5) there is inserted–

“(5A) In particular the Secretary of State may require a street authority to share information in their possession with a person appointed to keep a central register which discharges the duties of that authority under this section.”

Commencement

Pt 4 s. 45(1)-(4): Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Pt 4 s. 45(1)-(4): England, Wales

N Not Yet In Force

46 Records of location of apparatus

(1) Section 79 of the 1991 Act (records of location of apparatus) is amended as follows.

(2) After subsection (1) there is inserted—

“(1A) An undertaker may, except in such cases as may be prescribed, include in his records under subsection (1) a record of the location of any item of apparatus belonging to him which is not required to be so included, stating the nature of the apparatus and (if known) whether it is for the time being in use.”

(3) After subsection (2) there is inserted—

“(2A) Regulations under subsection (2) which alter the form or manner in which the records are to be kept may apply to records made before (as well as records made after) the alterations take effect.”

(4) After subsection (3) there is inserted—

“(3A) In subsections (2) to (3) the references to an undertaker's records are to the records kept by him under subsection (1) (including anything included in those records by virtue of any provision of this Act or any other enactment).”

Commencement

Pt 4 s. 46(1)-(4): Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Pt 4 s. 46(1)-(4): England, Wales

N Not Yet In Force

47 Duties relating to the location of unexpected apparatus

(1) Section 80 of the 1991 Act (duties where person finds unidentified apparatus) is amended as follows.

(2) In subsection (1) for “made available by the undertaker” there is substituted “kept by the undertaker under section 79(1) and made available by him”.

(3) After subsection (1) there is inserted–

“(1A) Subsection (1) has effect subject to such exceptions as may be prescribed.”

(4) For subsections (2) and (3) there is substituted–

“(2) Where a person executing works of any description in the street finds apparatus which does not belong to him and is unable, after taking such steps as are reasonably practicable, to ascertain to whom the apparatus belongs, he shall comply with such requirements (if any) as may be prescribed for the purpose of securing that he–

- (a) makes and keeps a record of the location of the apparatus and (so far as appears from external inspection) its nature and whether it is in use; and
- (b) informs the street authority or any other person of those matters.

(2A) Regulations under subsection (2) may make provision–

- (a) as to the form and manner in which records are to be kept;
- (b) as to the form and manner in which, or the time at or by which, information is to be given; and
- (c) for records which are to be kept by undertakers to be included in the records kept by them under section 79(1).”

(5) In subsection (4) for “(2)” there is substituted “any requirement imposed on him by regulations under subsection (2)”.

(6) After subsection (4) there is added–

“(5) The Secretary of State may by regulations make provision for and in connection with the keeping (whether by the Secretary of State or a person with whom he has made appropriate arrangements) of a register of information recorded by undertakers in pursuance of a requirement imposed under subsection (2).

(6) Regulations under subsection (5) may make provision about the inspection of the register by any person having authority to execute works of any description in the street or otherwise appearing to the person responsible for keeping the register to have a sufficient interest.”

Commencement

Pt 4 s. 47(1)-(6): Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Pt 4 s. 47(1)-(6): England, Wales

 Not Yet In Force

48 Duty to inspect records

After section 53 of the 1991 Act (the street works register) there is inserted–

“53A Duty to inspect records

- (1) The Secretary of State may make provision by regulations requiring an undertaker proposing to execute street works of a prescribed description to inspect prescribed statutory records before commencing the street works.
- (2) The regulations may provide for the manner in which an inspection of any statutory records is to be carried out.
- (3) The regulations may prescribe evidence which may be relied on by the undertaker to demonstrate that he has carried out an inspection required by the regulations.
- (4) The regulations may in particular require the undertaker—
 - (a) to be in possession of prescribed evidence before commencing the street works; and
 - (b) to produce, in such manner as may be prescribed, prescribed evidence to the street authority either at the request of the authority or at or by such time as may be prescribed.
- (5) The regulations may provide for the cases or circumstances in which a requirement under subsection (1) or (4) does or does not apply.
- (6) The regulations may create a summary offence, punishable with a fine not exceeding level 5 on the standard scale, in respect of any contravention by an undertaker of a requirement of the regulations.
- (7) In this section “statutory record” means any register or other record kept in pursuance of a requirement imposed by—
 - (a) an enactment; or
 - (b) a licence or other instrument having effect under or by virtue of an enactment.”

Commencement

Pt 4 s. 48: Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Pt 4 s. 48: England, Wales

Miscellaneous

Law In Force

49 Notices of street works

- (1) In section 54 of the 1991 Act (advance notice of certain works)—
 - (a) in subsection (3) for “contain such” there is substituted “state the date on which it is proposed to begin the works and shall contain such other”;
 - (b) after subsection (4) there is inserted—

“(4A) If an undertaker who has given advance notice under this section has not, before the starting date specified in the notice, given to the street authority a notice under section 55 in respect of the works, he shall within such period as may be prescribed give to that authority a notice containing such information as may be prescribed.

(4B) An advance notice under this section shall cease to have effect in relation to the proposed works (so that subsection (1) applies again in relation to the works) if those works are not substantially begun before the end of such period beginning with the starting date specified in the notice as may be prescribed, or such further period as the street authority may allow.

(4C) Different periods may be prescribed under subsection (4B) for different descriptions of works.”

(2) In section 55 of that Act (notice of starting date of works) after subsection (7) there is inserted–

“(8) If a notice under this section ceases to have effect the undertaker shall, within such period as may be prescribed, give a notice containing such information as may be prescribed to those to whom the notice under this section was required to be given.

(9) An undertaker who fails to give notice in accordance with subsection (8) commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.”

(3) In section 93 of that Act (works affecting level crossings or tramways) in subsection (2) for “(7)” there is substituted “(9)”.

Commencement

Pt 4 s. 49-(3): June 29, 2007 in relation to England for the purpose of conferring power to make regulations as specified in SI 2007/1890 Sch.1; November 26, 2007 in relation to Wales for the purpose of conferring power to make regulations as specified in SI 2007/3174 Sch.1; April 1, 2008 otherwise (SI 2007/1890 Sch. 1 para. 1, Pt 1 art. 2)

Extent

Pt 4 s. 49-(3): England, Wales

 Not Yet In Force

50 Qualifications of supervisors and operatives

(1) Section 67 of the 1991 Act (qualifications of supervisors and operatives) is amended as follows.

(2) After subsection (1) there is inserted–

“(1A) A street authority may (unless the case is one excepted from subsection (1)) by notice require an undertaker executing street works–

(a) to notify them of the name of–

(i) the person who is currently the qualified supervisor required by subsection (1); and

(ii) each person who has previously been the qualified supervisor so required; and

(b) to provide them with such evidence of the requisite qualification of each person named as may be prescribed.”

(3) After subsection (2) there is inserted—

“(2A) A street authority may (unless the case is one excepted from subsection (2)) by notice require an undertaker executing street works—

(a) to notify them of the name of—

(i) a person whose presence on site at any time specified in the notice (being a time when the works were in progress) enabled the undertaker to comply with his duty under subsection (2); or

(ii) each person whose presence on site during the progress of the works enabled the undertaker to comply with his duty in subsection (2); and

(b) to provide them with such evidence of the requisite qualification of each person named as may be prescribed.

(2B) A notice under subsection (1A) or (2A) may be given at any time while the works are being executed or within such period after their completion as may be prescribed.

(2C) The undertaker shall comply with a notice under subsection (1A) or (2A) within such period as may be prescribed.”

(4) In subsection (3) for “or (2)” there is substituted “, (2) or (2C)”.

(5) In subsection (4), after paragraph (b) there is inserted

“and

(c) the form of any document to be issued by an approved body to certify or otherwise show that a qualification has been conferred on any person.”

Commencement

Pt 4 s. 50(1)-(5): Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Pt 4 s. 50(1)-(5): England, Wales

Law In Force

51 Restriction on works following substantial road works

(1) Section 58 of the 1991 Act (restriction on works following substantial road works) is amended as specified in subsections (2) to (8).

(2) In subsection (1), for the words “twelve months” there is substituted “prescribed period”.

(3) In subsection (2), after “prescribed” there is inserted “form and” and for “three months” there is substituted “such period as may be prescribed”.

(4) In subsection (3) after paragraph (e) there is inserted

“and

(f) any other person of a prescribed description;”

(and the word “and” after paragraph (d) is omitted).

(5) In subsection (4), for paragraphs (a) and (b) there is substituted “within such period as may be prescribed”.

(6) In subsection (6), at the beginning of paragraph (b) there is inserted “if he is convicted of an offence under this subsection”.

(7) In subsection (7), for “by arbitration” there is substituted “in the prescribed manner”.

(8) After that subsection there is inserted–

“(7A) Regulations under subsection (7) may in particular make provision for the question referred to in that subsection to be settled–

(a) by arbitration;

(b) by a person designated by the Secretary of State on appeal by the undertaker.”

(9) In section 55 of the 1991 Act (notice of starting date of works), in subsection (2), after “works,” there is inserted “or in cases where the undertaker has been given notice under section 58(1),”.

Commencement

Pt 4 s. 51(1)-(3), (5)-(5), (7)-(9): June 29, 2007 in relation to England for the purpose of conferring power to make regulations as specified in SI 2007/1890 Sch.1; November 26, 2007 in relation to Wales for the purpose of conferring power to make regulations as specified in SI 2007/3174 Sch.1; April 1, 2008 otherwise (SI 2007/1890 Pt 1 art. 2)

Pt 4 s. 51(4)-(4): June 29, 2007 in relation to England; November 26, 2007 in relation to Wales (SI 2007/1890 Pt 1 art. 2)

Pt 4 s. 51(6)-(6): April 1, 2008 in relation to England; April 1, 2008 in relation to Wales (SI 2007/1890 Pt 1 art. 2)

Extent

Pt 4 s. 51(1)-(9): England, Wales

Law In Force

52 Restriction on works following substantial street works

(1) After section 58 of the 1991 Act there is inserted–

“58A Restriction on works following substantial street works

Schedule 3A shall have effect.”

(2) After Schedule 3 to that Act there is inserted Schedule 3A as set out in Schedule 4 to this Act.

(3) In section 57 of that Act (notice of emergency works)–

(a) in subsection (1) after “works)” there is inserted “or paragraph 2(1)(d) or 3(1) of Schedule 3A (notification of proposed works or directions as to timings of works)”;

(b) in subsection (2) after “is” there is inserted “(or would, but for paragraph 2(6) of Schedule 3A, be)”.

(4) In section 64 of that Act (traffic-sensitive streets) in subsection (1) after “works)” there is inserted “or paragraph 2 of Schedule 3A”.

(5) In section 74 of that Act (charge for occupation of highway where works unreasonably prolonged) in subsection (3)(b) after “date)” there is inserted “or notification under paragraph 2(1)(d) of Schedule 3A (notification of proposed works)”.

(6) In section 88 of that Act (provisions relating to bridges) in subsection (4) after “date)” there is inserted “, or making a notification under paragraph 2(1)(d) of Schedule 3A (notification of proposed works)”.

(7) In section 89 of that Act (provisions relating to sewers) in subsection (2) after “date)” there is inserted “, or making a notification under paragraph 2(1)(d) of Schedule 3A (notification of proposed works)”.

Commencement

Pt 4 s. 52(1)-(2), (4)-(5): June 29, 2007 in relation to England for the purpose of conferring power to make regulations as specified in SI 2007/1890 Sch.1; November 26, 2007 in relation to Wales for the purpose of conferring power to make regulations as specified in SI 2007/3174 Sch.1; April 1, 2008 otherwise (SI 2007/1890 Pt 1 art. 2)

Pt 4 s. 52(3)-(3)(b), (6)-(7): April 1, 2008 in relation to England; April 1, 2008 in relation to Wales (SI 2007/1890 Pt 1 art. 2)

Extent

Pt 4 s. 52(1)-(7): England, Wales

 Not Yet In Force

53 Notices requiring remedial works relating to reinstatements

(1) In section 72 of the 1991 Act (powers of street authority in relation to reinstatement)–

- (a) in subsection (3), for “of not less than 7 working days” there is substituted “, not being less than such period as may be prescribed,”; and
- (b) after subsection (3) there is inserted–

“(3A) Different minimum periods may be prescribed under subsection (3) for different descriptions of remedial works; and cases may be prescribed in which no minimum period applies.”

(2) In section 90 of the 1991 Act (powers of street authority in relation to reinstatement of sewers, etc.)–

- (a) in subsection (2), for “of not less than 7 working days” there is substituted “, not being less than such period as may be prescribed,”; and
- (b) after subsection (2) there is inserted–

“(2A) Different minimum periods may be prescribed under subsection (2) for different descriptions of remedial works; and cases may be prescribed in which no minimum period applies.”

Commencement

Pt 4 s. 53(1)-(2)(b): Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Pt 4 s. 53(1)-(2)(b): England, Wales

Law In Force

54 Duty to notify street authority of reinstatement

(1) Section 70 of the 1991 Act (duty of undertaker to reinstate) is amended as follows.

(2) After subsection (1) there is inserted–

“(1A) The reinstatement required by subsection (1) may be permanent or interim.”

(3) For subsections (3) and (4) there is substituted–

“(3) He shall within 7 working days from the date on which the reinstatement is completed give notice to the street authority of that completion–

(a) stating whether the reinstatement is permanent or interim; and

(b) giving such other information about the reinstatement as may be prescribed.

(4) If the reinstatement is interim, he shall complete the permanent reinstatement of the street as soon as reasonably practicable, and in any event within 6 months from the date on which the interim reinstatement was completed.

(4A) He shall, within 7 working days from the date on which the permanent reinstatement required by subsection (4) is completed, give notice to the street authority of that completion, giving such other information about the reinstatement as may be prescribed.

(4B) The Secretary of State may by regulations modify the period specified in subsection (3), (4) or (4A).”

Commencement

Pt 4 s. 54-(3): June 29, 2007 in relation to England for the purpose of conferring power to make regulations as specified in SI 2007/1890 Sch.1; November 26, 2007 in relation to Wales for the purpose of conferring power to make regulations as specified in SI 2007/3174 Sch.1; April 1, 2008 otherwise (SI 2007/1890 Sch. 1 para. 1, Pt 1 art. 2)

Extent

Pt 4 s. 54-(3): England, Wales

Not Yet In Force

55 Power of street authority to require undertaker to re-surface street

(1) After section 73 of the 1991 Act there is inserted–

“Re-surfacing

73A Power to require undertaker to re-surface street

(1) In prescribed circumstances, the street authority for a street may by notice (a “re-surfacing notice”) require an undertaker within subsection (2) to execute such re-surfacing works in the street as may be specified in the notice.

(2) An undertaker is within this subsection if–

(a) he has given notice under section 54 or 55 of, or made a notification under paragraph 2(1)(d) of Schedule 3A in respect of, proposed street works,

(b) he is executing street works, or

(c) he has, within such period ending with the giving of the notice as may be prescribed (or if no period is prescribed, at any time), executed street works, and the works will involve, involve or (as the case may be) involved the breaking up of any part of the street.

(3) The works specified in the re-surfacing notice may relate to any part of the street (including any part not, and not to be, broken up by the undertaker); but regulations may restrict the extent of the works that may be so specified.

(4) The re-surfacing notice relieves the undertaker to the extent (if any) specified in the notice of his duty under section 70 to reinstate the surface of the street; but regulations may restrict the circumstances in which and the extent to which undertakers may be relieved of that duty.

(5) The street authority may by notice to the undertaker vary or withdraw a re-surfacing notice; but regulations may restrict the circumstances in which notices may be varied or withdrawn.

(6) A street authority may give a re-surfacing notice notwithstanding that the authority (in any capacity) are under a duty to undertake any of the works specified in the notice.

(7) In this Part–

“re-surfacing notice” has the meaning given by subsection (1);

“re-surfacing works” means any works relating to the replacement of the surface of any part of a street;

“surface” includes a paved surface.

(8) The reference in subsection (2)(c) to the execution of street works is a reference to the execution of such works after the commencement of this section (whether or not regulations under it have been made).

73B Power to specify timing etc. of re-surfacing

(1) A re-surfacing notice may require an undertaker to–

(a) execute the works specified in the notice in stages so specified;

(b) begin the execution of those works (or any stage of them) at or by a date and time so specified;

(c) execute those works (or any stage of them) at times or on days (or at times on days) so specified;

(d) complete the execution of those works (or any stage of them) by a date and time so specified.

(2) The Secretary of State may by regulations make provision restricting, in some or all cases, the power to include requirements within subsection (1), including provision that—

(a) requires a street authority to consult an undertaker before a prescribed description of requirement is included in a notice;

(b) provides that any date specified in a notice for the beginning, execution or completion of works shall not be earlier than a prescribed period from the date on which the notice is given.

73C Materials, workmanship and standard of re-surfacing

(1) An undertaker who has been given a re-surfacing notice shall, when executing the works specified in the notice, comply with such requirements as may be prescribed as to the specification of materials to be used and the standards of workmanship to be observed.

(2) He shall also ensure that the new surface conforms to such performance standards as may be prescribed, for the prescribed period after completion of the works.”

(2) In section 106 of that Act—

(a) after the entry for relevant authority (in relation to street works) there is inserted—

“re-surfacing notice section 73A(7)
re-surfacing works section 73A(7)”;

(b) after the entry for street works licence there is inserted—

“surface section 73A(7)”.

Commencement

Pt 4 s. 55(1)-(2)(b): Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Pt 4 s. 55(1)-(2)(b): England, Wales

 Not Yet In Force

56 Re-surfacing: regulations and guidance

After section 73C of the 1991 Act there is inserted—

“73D Re-surfacing: regulations

(1) The Secretary of State may make regulations supplementing sections 73A to 73C.

(2) The regulations may in particular—

(a) make provision about the information to be contained in a re-surfacing notice (including the way in which re-surfacing works are to be described);

- (b) prescribe, for cases where a re-surfacing notice may be given to more than one undertaker, the matters that a street authority shall take into account when selecting the undertaker to whom the notice is to be given;
- (c) impose a requirement on an undertaker, in prescribed circumstances, to give notice to the street authority of a prescribed event;
- (d) prescribe circumstances in which an undertaker may elect to make a payment to the street authority instead of executing the works specified in a re-surfacing notice, and make provision about the calculation of the amount of such payments;
- (e) confer a right of review or appeal against a re-surfacing notice or any requirement contained in it, and may make provision about the period within which and manner in which any such right may be exercised and about the determination of appeals and the persons who may determine them;
- (f) require disputes of a prescribed description (including disputes as to the existence of circumstances prescribed under section 73A(1)) to be determined in such manner and by such persons as may be prescribed;
- (g) apply any provisions of this Part or the Highways Act 1980 (c. 66), with or without modifications, in relation to works specified in a re-surfacing notice (and provide that for those purposes the works are to be treated as street works or works of any other description).

(3) The regulations may provide that where a re-surfacing notice has been served on an undertaker, the street authority may (in such circumstances and to such extent as may be prescribed) by notice relieve any other undertaker within section 73A(2) of his duty under section 70 to reinstate the surface of the street.

(4) The regulations may create in respect of any breach of a requirement imposed by a re-surfacing notice or of the duty imposed by section 73C, or any contravention of the regulations, an offence punishable on summary conviction—

- (a) where the offence consists of a failure to give a notice in accordance with the regulations, with a fine not exceeding level 4 on the standard scale;
- (b) in any other case, with a fine not exceeding level 5 on the standard scale.

(5) The first regulations under this section or any of sections 73A to 73C shall not be made unless a draft of them has been laid before and approved by a resolution of each House of Parliament; subsequent regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

73E Re-surfacing: guidance

(1) The Secretary of State may, for the purposes of sections 73A to 73D (including regulations under those sections), issue or approve a code of practice giving practical guidance as to the exercise of powers and the discharge of duties under those sections.

(2) In exercising those powers and in discharging those duties, street authorities and undertakers shall have regard to the code of practice.”

Commencement

Pt 4 s. 56: Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Pt 4 s. 56: England, Wales

N Not Yet In Force

57 Contributions to costs of re-surfacing by undertaker

(1) After section 78 of the 1991 Act there is inserted—

“78A Contributions to costs of re-surfacing by undertaker

- (1) Where a street authority has given a re-surfacing notice to an undertaker (A)—
- (a) the authority shall pay to A a proportion, calculated in the prescribed manner, of the costs reasonably incurred by A in executing the works specified in the notice;
 - (b) an undertaker to whom subsection (2) applies shall pay to A a proportion, calculated in the prescribed manner, of those costs.
- (2) This subsection applies to an undertaker if—
- (a) he has, after the commencement of this section (whether or not regulations under it have been made) and before the completion of the works specified in the notice, executed street works which involved the breaking up of any part of a street, and
 - (b) the works specified in the notice include the re-surfacing of that part of the street.
- (3) The Secretary of State may by regulations prescribe exceptions to the duty imposed by subsection (1)(b).
- (4) The payments referred to in subsection (1) shall be made in such instalments and manner, and within such period of such event, as may be prescribed.
- (5) The Secretary of State may by regulations make provision—
- (a) requiring a street authority, within such period of such event as may be prescribed, to give to an undertaker to whom subsection (2) applies a notice containing such information as may be prescribed;
 - (b) requiring a street authority to pay to an undertaker to whom it has given a re-surfacing notice such sum as he has been unable to recover under subsection (1)(b) on account of the insolvency of an undertaker;
 - (c) requiring disputes of a prescribed description (including disputes as to whether subsection (2) applies to an undertaker) to be determined in such manner and by such persons as may be prescribed.
- (6) For the purposes of this section, any costs incurred by an undertaker (including any costs of a street authority which are borne by the undertaker) in consequence of a failure by the undertaker to comply with any duty under this Part shall be treated as having been incurred unreasonably.

(7) The Secretary of State may by regulations make provision requiring undertakers to make payments to a street authority where—

- (a) the authority has given a re-surfacing notice to an undertaker,
- (b) that undertaker has exercised a right, conferred by regulations under section 73D, of the sort mentioned in subsection (2)(d) of that section, and
- (c) the authority has carried out any of the works specified in the notice.

(8) The power in subsection (7) includes power to make provision corresponding to provision that may be made under subsections (1) to (5).

(9) Regulations under this section may make different provision for cases where an undertaker mentioned in subsection (1) or (7) has made, or is liable to make, a payment under section 78.

(10) The first regulations under this section shall not be made unless a draft of them has been laid before and approved by a resolution of each House of Parliament; subsequent regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(11) In subsection (5)(b) “insolvency”—

- (a) in relation to a company, has the meaning given by section 247(1) of the Insolvency Act 1986;
- (b) in relation to an individual, includes the approval of a voluntary arrangement under Part 8 of that Act.”

(2) In section 96 of the 1991 Act, in subsection (3), after “street)” there is inserted “or 78A (contributions to costs of re-surfacing by undertakers)”.

Commencement

Pt 4 s. 57(1)-(2): Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Pt 4 s. 57(1)-(2): England, Wales

 Not Yet In Force

58 Inspection fees

(1) In section 72 of the 1991 Act (powers of street authority in relation to reinstatement) after subsection (2) there is inserted—

“(2A) The Secretary of State may prescribe a fee in respect of a prescribed description of inspection mentioned in subsection (2).

If he does so that subsection has effect, in relation to that description of inspection, as if for “he shall bear the cost of” there were substituted “he shall pay the prescribed fee in respect of”.

(2B) The power to make different provision under subsection (2A) for different cases includes power—

- (a) to make different provision for different descriptions of street authority or undertakers;
- (b) to prescribe different fees by reference to the nature or extent of the inspection, the place where it is carried out and such other factors as appear to the Secretary of State to be relevant.”

(2) For section 75 of that Act (inspection fees) there is substituted–

“75 Inspection fees

(1) The Secretary of State may make provision by regulations requiring an undertaker to pay to the street authority the prescribed fee in respect of–

- (a) all inspections carried out by the authority of his street works; or
- (b) such inspections of those works as may be prescribed.

(2) The regulations may–

- (a) require undertakers to make payments in respect of inspections anticipated to take place within a prescribed period; and
- (b) make provision for the striking of an account between an undertaker and a street authority and the making of any necessary payment or repayment.

(3) The power to make different provision under this section for different cases includes power–

- (a) to make different provision for different descriptions of street authority or different descriptions of undertakers (including descriptions framed by reference to their previous performance);
- (b) to prescribe different fees by reference to the nature or extent of the excavation or other works, the place where they are executed and such other factors as appear to the Secretary of State to be relevant.

(4) The reference in subsection (3)(a) to the previous performance of an undertaker is to the performance of the undertaker, during such period as may be prescribed, as respects such description of his duties under this Part as may be prescribed.

(5) The regulations may require disputes of any prescribed description to be determined by arbitration.


(6) Nothing in this section applies to inspections in respect of which the undertaker is obliged to bear the cost, or pay the prescribed fee, under section 72(2) (inspections consequent on failure to comply with duties as to reinstatement).”

Commencement

Pt 4 s. 58(1)-(2): Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Pt 4 s. 58(1)-(2): England, Wales

 Partially In Force

59 Guidance about inspections

After section 73E of the 1991 Act (as inserted by section 56 above) there is inserted–

“Inspections

73F Guidance about street authority inspections

(1) The Secretary of State may issue or approve guidance to street authorities about any matter relating to the exercise by them of any power to carry out inspections of street works.

(2) In exercising their powers to carry out such inspections a street authority shall have regard to any guidance issued or approved under this section.

(3) In this section any reference to inspections includes the carrying out of investigatory works.”

Commencement

Pt 4 s. 59: April 6, 2015 in relation to England; not yet in force otherwise (SI 2015/199 art. 2)


Extent

Pt 4 s. 59: England, Wales

PART 5

HIGHWAYS AND ROADS

Strategic roads in London

 Law In Force

60 Strategic roads in London: initial designation by Secretary of State

(1) The Secretary of State may by order made by statutory instrument designate roads and proposed roads in Greater London, other than roads for which the Secretary of State [, a strategic highways company]¹ or Transport for London is the traffic authority, as strategic roads for the purposes of–

- (a) section 301A of the 1980 Act, and
- (b) section 121B of the 1984 Act.

(2) Any road or proposed road so designated shall become a strategic road as from such date as may be specified in the order.

(3) No order under subsection (1) may be made in respect of a road or proposed road in a London borough if an order under that subsection has been made in respect of any other road or proposed road in that borough.

(4) In this section and section 61–

(a) “road” means any length of highway or of any other road to which the public has access, and includes bridges over which a road passes;

[(aa) “strategic highways company” means a company for the time being appointed under Part 1 of the Infrastructure Act 2015;]²

(b) “strategic road” means a road which is for the time being a strategic road by virtue of an order under subsection (1) or section 61(1);

(c) “traffic authority” has the same meaning as in the 1984 Act.

(5) For the purposes of this section and section 61–

(a) the City of London shall be treated as if it were a London borough;

(b) the Common Council shall be treated as if it were the council for a London borough;

(c) the Inner Temple and the Middle Temple shall be treated as forming part of the City.

(6) In this Part–

“the 1980 Act” means the Highways Act 1980 (c. 66);

“the 1984 Act” means the Road Traffic Regulation Act 1984 (c. 27).

(7) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

Notes

¹ Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.149(2) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

² Added by Infrastructure Act 2015 c. 7 Sch.1(2) para.149(3) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt 5 s. 60(1)-(7): October 4, 2004 in relation to England (SI 2004/2380 art. 2(e))

Extent

Pt 5 s. 60(1)-(7): England, Wales

Law In Force

61 Orders of the Greater London Authority changing what are strategic roads

(1) If the Mayor of London considers it expedient that any road or proposed road in Greater London, other than a road for which the Secretary of State [, a strategic highways company]¹ or Transport for London is the traffic authority, should become a strategic road then the Greater London Authority may by order direct that the road or proposed road shall become a strategic road.

(2) Subject to subsection (3), an order under subsection (1) takes effect on such date as may be specified in the order.

(3) An order under subsection (1) is of no effect unless–

- (a) it is made with the consent of the council for the London borough in which the road is situated (or proposed road is to be situated), or
- (b) if that consent is refused, it is confirmed (with or without modifications) by the Secretary of State.

(4) If the Mayor considers it expedient that any strategic road should cease to be such a road then the Greater London Authority may by order direct that the road shall cease to be such a road.

(5) An order under subsection (4) takes effect on such date as may be specified in the order.

(6) The functions of the Greater London Authority under this section are functions exercisable by the Mayor acting on its behalf.

(7) Section 124C of the 1984 Act (certification and records) applies in relation to strategic roads as it applies in relation to GLA side roads.

Notes

- ¹ Words inserted by Infrastructure Act 2015 c. 7 Sch.1(2) para.150 (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

Commencement

Pt 5 s. 61(1)-(7): October 4, 2004 in relation to England (SI 2004/2380 art. 2(e))

Extent

Pt 5 s. 61(1)-(7): England, Wales

Law In Force

62 London borough council exercising powers under Highways Act 1980 so as to affect strategic roads

(1) Section 301A of the 1980 Act (London borough council exercising powers under that Act so as to affect certain roads) is amended as follows.

(2) In subsection (1)–

(a) at the end of paragraph (a) there is inserted–

“(aa) a strategic road;”;

(b) in paragraph (b), after “borough” there is inserted “other than a GLA road or strategic road”.

(3) In subsection (3)(a), for the words from “by Transport for London” to the end there is substituted

“–

(i) in the case of a GLA road, by Transport for London;

(ii) in the case of a strategic road, by Transport for London and, where the road concerned is in another London borough, the council for that borough;

(iii) in the case of a road within subsection (1)(b), by the London borough council concerned; or”.

(4) After subsection (3) there is inserted–

“(3A) References in paragraphs (b) to (d) of subsection (3) to objections are to objections made by a person who, in the circumstances, has the power to give an approval under paragraph (a) of that subsection.”

(5) In subsection (5)(a), for the words from “a GLA road” to the end there is substituted

“_

- (i) a GLA road,
 - (ii) a strategic road, or
 - (iii) a road in another London borough other than a GLA road or strategic road,
- and”.

(6) In subsection (10)–

- (a) in paragraph (b), at the end there is inserted “or strategic roads”;
- (b) in paragraph (c), for “neither GLA roads nor” there is substituted “not GLA roads, strategic roads or”.

(7) After subsection (16) there is inserted–

“(17) In this section “strategic road” has the meaning given by section 60 of the Traffic Management Act 2004.”

Commencement

Pt 5 s. 62(1)-(7): October 4, 2004 in relation to England (SI 2004/2380 art. 2(e))

Extent

Pt 5 s. 62(1)-(7): England, Wales

Law In Force

63 London borough council exercising powers under Road Traffic Regulation Act 1984 so as to affect strategic roads

(1) Section 121B of the 1984 Act (London borough council exercising powers under that Act so as to affect certain roads) is amended as follows.

(2) In subsection (1)–

(a) at the end of paragraph (a) there is inserted–

“(aa) a strategic road,”;

(b) in paragraph (b), after “borough” there is inserted “other than a GLA road or strategic road”.

(3) In subsection (3)(a), for the words from “by Transport for London” to the end there is substituted

“_

- (i) in the case of a GLA road, by Transport for London;
- (ii) in the case of a strategic road, by Transport for London and, where the road concerned is in another London borough, the council for that borough;

(iii) in the case of a road within subsection (1)(b), by the London borough council concerned; or”.

(4) After subsection (3) there is inserted–

“(3A) References in paragraphs (b) to (d) of subsection (3) to objections are to objections made by a person who, in the circumstances, has the power to give an approval under paragraph (a) of that subsection.”

(5) In subsection (5)(a), for the words from “a GLA road” to the end there is substituted

“–

- (i) a GLA road,
 - (ii) a strategic road, or
 - (iii) a road in another London borough other than a GLA road or strategic road,
- and”.

(6) In subsection (10)–

- (a) in paragraph (b), at the end there is inserted “or strategic roads”;
- (b) in paragraph (c), for “neither GLA roads nor” there is substituted “not GLA roads, strategic roads or”.

(7) After subsection (12) there is inserted–

“(13) In this section “strategic road” has the meaning given by section 60 of the Traffic Management Act 2004.”

Commencement

Pt 5 s. 63(1)-(7): October 4, 2004 in relation to England (SI 2004/2380 art. 2(e))

Extent

Pt 5 s. 63(1)-(7): England, Wales

Enforcement of certain offences under the Highways Act 1980

 Not Yet In Force

64 Fixed penalty offences under the Highways Act 1980

(1) After section 314 of the 1980 Act (offences by body corporate) there is inserted–

“314A Fixed penalties for certain offences under Part 9

(1) A fixed penalty offence is any offence under Part 9 which–

- (a) is listed in the first column in Schedule 22A (and described in general terms in the second column), and
- (b) is prescribed in regulations made by the Secretary of State.

(2) Offences listed in that Schedule which are committed by virtue of section 314 (offences committed by bodies corporate, etc.) are not fixed penalty offences.

(3) Schedule 22B (which makes provision about fixed penalties for fixed penalty offences) has effect.

(4) Regulations under subsection (1)(b) may—

(a) make provision for Greater London different from that made for the rest of England;

(b) make consequential provision (including provision disapplying sections 8 to 11 of, and Schedule 2 to, the London Local Authorities and Transport for London Act 2003 in relation to any offence prescribed in such regulations);

(c) make transitional provision.”

(2) In section 322(5) of that Act (service of notices etc.), after paragraph (a) there is inserted—

“(ab) a notice under Schedule 22B to this Act;”.

(3) After Schedule 22 to that Act there is inserted Schedules 22A and 22B as set out in Schedules 5 and 6 to this Act.

(4) In the New Roads and Street Works Act 1991 (c. 22), in section 97 (service of notices etc.) after subsection (2) there is inserted—

“(3) References in this section to notices authorised to be given or served for the purposes of this Part include a reference to notices under Schedule 22B to the Highways Act 1980 (fixed penalties for certain offences under that Act).”

(5) In the London Local Authorities and Transport for London Act 2003 (c. iii), in section 11 (fixed penalties: reserve powers of Secretary of State) after subsection (6) there is inserted—

“(7) The Secretary of State may make regulations increasing the level of fixed penalty under this Act in respect of an offence listed in Schedule 22A to the Highways Act 1980 (as well as Schedule 4 to this Act).

(8) While regulations under subsection (7) are in force in respect of an offence, the borough councils and Transport for London may not set the level of fixed penalty in respect of that offence below that set by the regulations.”

Commencement

Pt 5 s. 64(1)-(5): Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Pt 5 s. 64(1)-(5): England, Wales

Records of objects placed in highway

N Not Yet In Force

I Amendment(s) Pending

65 Duty of local highway authority to keep records of objects in highway

(1) The appropriate national authority may by regulations made by statutory instrument require a local highway authority to make and keep a record of the location of any object of a description specified in the regulations which has been placed by that authority in a street.

(2) Regulations under this section may include provision—

- (a) as to the form in which a record is to be made;
- (b) as to supplementary information to be included in a record;
- (c) requiring a record to be made available for inspection.

(3) The reference in subsection (1) to an object placed in a street includes an object placed under, over, across, along or upon a street.

(4) In this section—

“appropriate national authority” means—

- (a) the Secretary of State, in relation to local highway authorities in England;
- (b) the National Assembly for Wales, in relation to local highway authorities in Wales;

“street” has the same meaning as in Part 3 of the New Roads and Street Works Act 1991.

(5) A statutory instrument containing regulations under this section made by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.

Amendments Pending

Pt 5 s. 65: words inserted by Infrastructure Act 2015 c. 7 Sch. 1(2) para. 151(4) (date to be appointed: insertion came into force on February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 as SI 2015/481 otherwise but cannot take effect until the commencement of 2004 c.18 s.65)

Pt 5 s. 65(1): words inserted by Infrastructure Act 2015 c. 7 Sch. 1(2) para. 151(2)(a) (date to be appointed: insertion came into force on February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 as SI 2015/481 otherwise but cannot take effect until the commencement of 2004 c.18 s.65(1))

Pt 5 s. 65(1): words inserted by Infrastructure Act 2015 c. 7 Sch. 1(2) para. 151(2)(b) (date to be appointed: insertion came into force on February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 as SI 2015/481 otherwise but cannot take effect until the commencement of 2004 c.18 s.65(1))

Pt 5 s. 65(4) definition of "appropriate national authority" (a): words inserted by Infrastructure Act 2015 c. 7 Sch. 1(2) para. 151(3)(a) (date to be appointed: insertion came into force on February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 as SI 2015/481 otherwise but cannot take effect until the commencement of 2004 c.18 s.65(4))

Pt 5 s. 65(4) definition of "local highway authority": definitions inserted by Infrastructure Act 2015 c. 7 Sch. 1(2) para. 151(3)(b) (date to be appointed: insertion came into force on February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 as SI 2015/481 otherwise but cannot take effect until the commencement of 2004 c.18 s.65(4))

Pt 5 s. 65(4) definition of "strategic highways company": definitions inserted by Infrastructure Act 2015 c. 7 Sch. 1(2) para. 151(3)(b) (date to be appointed: insertion came into force on February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 as SI 2015/481 otherwise but cannot take effect until the commencement of 2004 c.18 s.65(4))

Commencement

Pt 5 s. 65(1)-(5): Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Pt 5 s. 65(1)-(5): England, Wales

Skips, scaffolding, building materials and excavations: charges for occupation of highway etc.

 Not Yet In Force

66 Builders' skips: charge for occupation of highway for unreasonable period

For section 140A of the 1980 Act there is substituted–

“140A Builders' skips: charge for occupation of highway for unreasonable period

(1) The Secretary of State may make provision by regulations requiring the owner of a builder's skip deposited on a highway maintainable at the public expense to pay a charge to the highway authority where the period for which the skip remains in the highway exceeds–

- (a) such period as may be prescribed, and
- (b) a reasonable period.

(2) For this purpose “a reasonable period” means such period as is agreed by the authority and the owner of the skip to be reasonable or, in default of such agreement, is determined by arbitration to be reasonable in the circumstances.

(3) In default of agreement, the authority's view as to what is a reasonable period shall be acted upon pending the decision of the arbitrator.

(4) The regulations may prescribe exemptions from the requirement to pay charges.

(5) The regulations may provide–

- (a) that in prescribed circumstances (including in particular where any person makes an application for permission under section 139) the owner of the skip shall give to the authority, in such manner and within such period as may be prescribed, notice containing an estimate of the likely duration of the occupation of the highway, and
- (b) that the period stated in the notice shall be taken to be agreed by the authority to be reasonable unless the authority give notice, in such manner and within such period as may be prescribed, objecting to the estimate.

(6) The regulations may also provide–

- (a) that in prescribed circumstances the owner of the skip shall give to the authority, in such manner and within such period as may be prescribed, notice containing a revised estimate of the likely duration of the occupation of the highway, and
- (b) that upon the notice being given any previous agreement to or determination of a reasonable period ceases to have effect, and the period stated in the notice shall be taken to be agreed by the authority to be reasonable unless the authority give notice, in such manner and within such period as may be prescribed, objecting to the revised estimate.

- (7) The amount of the charge shall be determined in such manner as may be prescribed by reference to the period for which the highway is occupied by the skip.
- (8) The regulations may prescribe different rates of charge according to—
- (a) the extent to which the skip occupies the highway;
 - (b) the place and time of the occupation;
 - (c) such other factors as appear to the Secretary of State to be relevant.
- (9) The regulations may provide—
- (a) that the authority are to set the rate of charge, up to a prescribed maximum, and
 - (b) that different rates of charge may be set according to such factors as the authority consider relevant.
- (10) The regulations may make provision for the determination of the duration of the occupation of the highway for the purposes of the regulations.
- (11) And they may, in particular, make provision for an occupation to be treated as beginning or ending on the giving of, or as stated in, a notice given by the owner of the skip to the authority, in the prescribed manner, in accordance with a requirement imposed by the regulations.
- (12) The regulations may make provision requiring the owner of the skip to provide the authority, in such manner and within such period as may be prescribed, with such information as the authority may specify in a notice to that person, being information required for the purposes of—
- (a) determining whether a charge is payable by him;
 - (b) calculating the amount of any charge payable by him.
- (13) The regulations may make provision as to the time and manner of making payment of charges.
- (14) The regulations shall provide that a highway authority may reduce the amount, or waive payment, of a charge—
- (a) in any particular case,
 - (b) in such classes of case as they may decide or as may be prescribed, or
 - (c) in all cases or in all cases other than a particular case or such class of case as they may decide or as may be prescribed.
- (15) The regulations may make provision as to—
- (a) the application by local highway authorities of sums paid by way of charges, and
 - (b) the keeping of accounts, and the preparation and publication of statements of account, relating to sums paid by way of charges.
- (16) The regulations may create in respect of any failure to give a notice, or to provide information, required by the regulations a criminal offence triable summarily and punishable with a fine not exceeding level 4 on the standard scale.
- (17) The regulations may provide that where a skip is the subject of a prescribed description of hiring agreement or hire purchase agreement, the person in possession of the skip under the agreement is for the purposes of the regulations to be treated as the owner of the skip.
- (18) The regulations may make provision about their application to a series of deposits of skips.

(19) And they may, in particular, provide that a series of deposits of skips is to be treated as a single deposit of a skip—

- (a) beginning at the time the first in the series was deposited, and
- (b) ending at the time the last in the series was removed.

(20) In this section—

“builder's skip” has the meaning given by section 139(11);

“prescribed” means prescribed by the Secretary of State by regulations, which may make different provision for different cases.”

Commencement

Pt 5 s. 66: Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Pt 5 s. 66: England, Wales

 Not Yet In Force

67 Builders' skips: charge determined by reference to duration of occupation of highway

After section 140A of the 1980 Act there is inserted—

“140B Builders' skips: charge determined by reference to duration of occupation of highway

(1) The Secretary of State may make provision by regulations requiring the owner of a builder's skip deposited on a highway maintainable at the public expense to pay to the highway authority a charge determined, in the prescribed manner, by reference to the period for which the highway is occupied by the skip.

(2) The regulations shall not require charges to be paid to a local highway authority unless the Secretary of State has, by order, approved the authority for the purposes of the regulations.

(3) The regulations may require disputes of any prescribed description to be referred to an arbitrator appointed in accordance with the regulations.

(4) Subsections (4) and (8) to (20) of section 140A apply in relation to regulations under subsection (1) of this section as they apply in relation to regulations under subsection (1) of that section.”

Commencement

Pt 5 s. 67: Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Pt 5 s. 67: England, Wales

N Not Yet In Force

68 Scaffolding, building materials and excavations: charge for occupation of highway for unreasonable period

For section 171A of the 1980 Act there is substituted—

“171A Scaffolding, building materials and excavations: charge for occupation of highway for unreasonable period

- (1) The Secretary of State may make provision by regulations requiring a person who—
 - (a) erects a relevant structure on or over a highway maintainable at the public expense,
 - (b) deposits building materials, rubbish or other things in such a highway, or
 - (c) makes a temporary excavation in such a highway,to pay a charge to the highway authority in the circumstances set out in subsection (3).
- (2) The reference in subsection (1)(a) to the erection of a relevant structure is a reference to the erection, in connection with any building or demolition work or the alteration, repair, maintenance or cleaning of any building, of any scaffolding or other structure that obstructs the highway.
- (3) The circumstances are that the period (in this section, the “relevant period”) for which—
 - (a) a relevant structure is on or over the highway,
 - (b) things are deposited in the highway, or (as the case may be)
 - (c) there is an excavation in the highway,exceeds both the prescribed period and a reasonable period.
- (4) For this purpose “a reasonable period” means such period as is agreed by the authority and the person to be reasonable or, in default of such agreement, is determined by arbitration to be reasonable in the circumstances.
- (5) In default of agreement, the authority's view as to what is a reasonable period shall be acted upon pending the decision of the arbitrator.
- (6) The regulations may prescribe exemptions from the requirement to pay charges.
- (7) The regulations may provide—
 - (a) that in prescribed circumstances (including in particular where an application is made for a licence under section 169 or consent under section 171) a person who intends to do or who does an activity mentioned in subsection (1)(a) to (c) shall give to the authority, in such manner and within such period as may be prescribed, notice containing an estimate of the likely duration of the relevant period, and
 - (b) that the period stated in the notice shall be taken to be agreed by the authority to be reasonable unless the authority give notice, in such manner and within such period as may be prescribed, objecting to the estimate.
- (8) The regulations may also provide—
 - (a) that in prescribed circumstances a person who has given a notice of a type mentioned in subsection (7) shall give to the authority, in such manner and within such period as may be prescribed, notice containing a revised estimate of the likely duration of the relevant period, and

- (b) that upon the notice being given any previous agreement to or determination of a reasonable period ceases to have effect, and the period stated in the notice shall be taken to be agreed by the authority to be reasonable unless the authority give notice, in such manner and within such period as may be prescribed, objecting to the revised estimate.
- (9) The amount of the charge shall be determined in such manner as may be prescribed by reference to the relevant period.
- (10) The regulations may prescribe different rates of charge according to—
- (a) the extent to which the highway is affected by the structure, things deposited or excavation;
 - (b) the place and time at which the highway is so affected;
 - (c) such other factors as appear to the Secretary of State to be relevant.
- (11) The regulations may provide—
- (a) that the authority are to set the rate of charge, up to a prescribed maximum, and
 - (b) that different rates of charge may be set according to such factors as the authority consider relevant.
- (12) The regulations may make provision for the determination of the duration of the relevant period for the purposes of the regulations.
- (13) And they may, in particular, make provision for the relevant period to be treated as beginning or ending on the giving of, or as stated in, a notice given by the person mentioned in subsection (1) to the authority, in the prescribed manner, in accordance with a requirement imposed by the regulations.
- (14) The regulations may make provision requiring a person who does an activity mentioned in subsection (1)(a) to (c) to provide the authority, in such manner and within such period as may be prescribed, with such information as the authority may specify in a notice to that person, being information required for the purposes of—
- (a) determining whether a charge is payable by him;
 - (b) calculating the amount of any charge payable by him.
- (15) The regulations may make provision as to the time and manner of making payment of charges.
- (16) The regulations shall provide that a highway authority may reduce the amount, or waive payment, of a charge—
- (a) in any particular case,
 - (b) in such classes of case as they may decide or as may be prescribed, or
 - (c) in all cases or in all cases other than a particular case or such class of case as they may decide or as may be prescribed.
- (17) The regulations may make provision as to—
- (a) the application by local highway authorities of sums paid by way of charges, and
 - (b) the keeping of accounts, and the preparation and publication of statements of account, relating to sums paid by way of charges.

(18) The regulations may create in respect of any failure to give a notice, or to provide information, required by the regulations a criminal offence triable summarily and punishable with a fine not exceeding level 4 on the standard scale.

(19) The regulations may make provision about their application to a series of deposits of things.

(20) And they may, in particular, provide that a series of deposits of things is to be treated as a single deposit of things—

- (a) beginning at the time the first in the series was deposited, and
- (b) ending at the time the last in the series was removed.

(21) The regulations may make provision corresponding to that mentioned in subsections (19) and (20) in relation to the erection of relevant structures and the making of excavations.

(22) In this section “prescribed” means prescribed by the Secretary of State by regulations, which may make different provision for different cases.”

Commencement

Pt 5 s. 68: Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Pt 5 s. 68: England, Wales

 Not Yet In Force

69 Scaffolding, building materials and excavations: charge determined by reference to duration of occupation of highway

After section 171A of the 1980 Act there is inserted—

“171B Scaffolding, building materials and excavations: charge determined by reference to duration of occupation of highway

(1) The Secretary of State may make provision by regulations requiring a person who—

- (a) erects a relevant structure on or over a highway maintainable at the public expense,
- (b) deposits building materials, rubbish or other things in such a highway, or
- (c) makes a temporary excavation in such a highway,

to pay a charge to the highway authority.

(2) The reference in subsection (1)(a) to the erection of a relevant structure is a reference to the erection, in connection with any building or demolition work or the alteration, repair, maintenance or cleaning of any building, of any scaffolding or other structure that obstructs the highway.

(3) The charge shall be determined in the prescribed manner, by reference to the period (in this section, the “relevant period”) for which—

- (a) a relevant structure is on or over the highway,
- (b) things are deposited in the highway, or (as the case may be)

(c) there is an excavation in the highway.

(4) The regulations shall not require charges to be paid to a local highway authority unless the Secretary of State has, by order, approved the authority for the purposes of the regulations.

(5) The regulations may require disputes of any prescribed description to be referred to an arbitrator appointed in accordance with the regulations.


(6) Subsections (6) and (10) to (22) of section 171A apply in relation to regulations under subsection (1) of this section as they apply in relation to regulations under subsection (1) of that section.”

Commencement

Pt 5 s. 69: Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Pt 5 s. 69: England, Wales

 Not Yet In Force

70 Sections 66 to 69: supplementary

(1) In section 139 of the 1980 Act, in subsection (11) for “, section 140 and section 140A” there is substituted “and section 140”.

(2) After section 140B of that Act there is inserted–

“140C Regulations under sections 140A and 140B

Nothing shall be taken to prevent the imposition of charges by both regulations under section 140A and regulations under section 140B in respect of the same builder's skip at the same time.”

(3) After section 171B of that Act there is inserted–

“171C Regulations under sections 171A and 171B

Nothing shall be taken to prevent the imposition of charges by both regulations under section 171A and regulations under section 171B in respect of the same structure, things or excavation at the same time.”

(4) In section 325 of that Act (provisions as to regulations), in subsection (2A)–

(a) in paragraph (a), after “140A” there is inserted “or 140B”;

(b) for paragraphs (b) and (c) there is substituted–

“(b) the first regulations for the purposes of section 171A or 171B as they apply in relation to the erection of relevant structures, or

(c) the first regulations for the purposes of section 171A or 171B as they apply in relation to the deposit of building materials, rubbish or other things and the making of temporary excavations.”.

Commencement

Pt 5 s. 70(1)-(4)(b): Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Pt 5 s. 70(1)-(4)(b): England, Wales

Guidance as to safety precautions

Law In Force

71 Guidance to local highway authorities as to safety precautions

In section 174 of the 1980 Act (precautions to be taken by persons executing works in streets), after subsection (1) there is inserted—

“(1A) The Secretary of State may give guidance to local highway authorities as to the discharge by them of their obligations under subsection (1)(a) and (b) where they are executing works for road purposes.

(1B) A local highway authority must in executing any works for road purposes have regard to any guidance given under subsection (1A).

(1C) In subsections (1A) and (1B) “works for road purposes” has the same meaning as in Part 3 of the New Roads and Street Works Act 1991.”

Commencement

Pt 5 s. 71-: November 26, 2007 in relation to Wales; October 1, 2013 in relation to England (SI 2007/3174 Sch. 1 para. 1, Pt 1 art. 2)

Extent

Pt 5 s. 71-: England, Wales

PART 6**CIVIL ENFORCEMENT OF TRAFFIC CONTRAVENTIONS***Civil penalties for road traffic contraventions*

✔ Law In Force

72 Civil penalties for road traffic contraventions

- (1) The appropriate national authority may make provision by regulations for or in connection with—
- (a) the imposition of penalty charges in respect of road traffic contraventions that—
 - (i) are subject to civil enforcement (see section 73), and
 - (ii) are committed in an area that is a civil enforcement area for contraventions of that description (see section 74), and
 - (b) the payment of such penalty charges.
- (2) The regulations shall include provision specifying the person or persons by whom a penalty charge in respect of a contravention is to be paid (who may be the owner of the vehicle involved in the contravention, its driver at the time of the contravention or any other appropriate person).
- (3) The regulations shall include provision in respect of any description of conduct for which a penalty charge may be imposed—
- (a) prohibiting criminal proceedings or the issuing of a fixed penalty notice in respect of conduct of that description, or
 - (b) securing that a penalty charge is not required to be paid, or is refunded, where the conduct is the subject of criminal proceedings or of a fixed penalty notice.
- (4) The regulations may include provision prohibiting the imposition of a penalty charge except on the basis of—
- (a) a record produced by an approved device, or
 - (b) information given by a civil enforcement officer as to conduct observed by him.
- (5) The regulations may—
- (a) specify exemptions from penalty charges, and
 - (b) make provision for discounts or surcharges, or both.

Commencement

Pt 6 s. 72-(5)(b): October 26, 2006 in relation to Wales; July 23, 2007 in relation to England (SI 2007/2053 art. 2(2)(a); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 72-(5)(b): England, Wales

✔ Law In Force

73 Contraventions subject to civil enforcement

- (1) Schedule 7 specifies the road traffic contraventions that are subject to civil enforcement.
- (2) These are—
- (a) parking contraventions (see Part 1 of the Schedule);
 - (b) bus lane contraventions (see Part 2 of the Schedule);
 - (c) London lorry ban contraventions (see Part 3 of the Schedule);
 - (d) moving traffic contraventions (see Part 4 of the Schedule).

(3) Regulations under this Part of this Act may make different provision in relation to different descriptions of contravention.

(4) The appropriate national authority may by regulations make such consequential amendment of Schedule 7 as appears to the authority to be required in consequence of the amendment, replacement or revocation of any provision of subordinate legislation referred to in that Schedule.

Commencement

Pt 6 s. 73-(4): October 26, 2006 in relation to Wales; July 23, 2007 in relation to England (SI 2007/2053 art. 2(2)(b); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 73-(4): England, Wales

Law In Force

74 Civil enforcement areas

(1) Schedule 8 makes provision–

- (a) as to the areas that are civil enforcement areas for the purposes of different descriptions of road traffic contravention, and
- (b) as to the meaning of “enforcement authority” in relation to road traffic contraventions committed in a civil enforcement area.

(2) In that Schedule–

- Part 1 makes provision for Greater London, and
 - Part 2 makes provision for the rest of England and Wales.
-

Commencement

Pt 6 s. 74-(2): October 26, 2006 in relation to Wales; March 31, 2008 in relation to England for provisions specified in SI 2007/2053 art.3(2)(f) (SI 2007/2053 art. 3(2)(a); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 74-(2): England, Wales

Law In Force

75 Power to require authority to apply for civil enforcement powers

(1) The appropriate national authority may by notice in writing under this section (a “notice to apply”) require a local authority to make an application under paragraph 8 of Schedule 8 for an order designating the whole or part of the local authority's area as a civil enforcement area for parking contraventions.

(2) The notice must specify–

- (a) the date by which the local authority is to make the application (“the application date”),

- (b) the latest date by which the application must request that the order comes into force (“the in-force date”), and
 - (c) the area in respect of which the application is to be made.
- (3) Before giving a notice to apply the appropriate national authority must inform the local authority concerned and the appropriate chief officer of police, in writing, of its intention to give such a notice, indicating the application date, the in-force date and the area it intends to specify in the notice.
- (4) The local authority may make representations to the appropriate national authority to the effect—
- (a) that a notice to apply should not be given to the authority, or
 - (b) that the notice should specify a different application date, a different in-force date, or a different area in respect of which the application is to be made.
- (5) In considering whether to give a notice to apply the appropriate national authority must have regard to the local authority's representations and take into account—
- (a) the administrative burden of creating or extending a civil enforcement area and of enforcing parking contraventions within such an area,
 - (b) the financial circumstances of the local authority concerned and the likely expenses and receipts in connection with the proposed civil enforcement area,
 - (c) any representations made by the appropriate chief officer of police, and
 - (d) any other factors appearing to the appropriate national authority to be relevant.
- (6) After a notice to apply has been given, it may be modified by agreement between the appropriate national authority and the local authority concerned.

Commencement

Pt 6 s. 75-(6): October 26, 2006 in relation to Wales; March 31, 2008 in relation to England (SI 2007/2053 art. 3(2)(b); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 75-(6): England, Wales

Law In Force

76 Civil enforcement officers

- (1) A local authority may provide for the enforcement of road traffic contraventions for which it is the enforcement authority by individuals to be known as civil enforcement officers.
- (2) A civil enforcement officer must be—
- (a) an individual employed by the authority, or
 - (b) where the authority have made arrangements with any person for the purposes of this section, an individual employed by that person to act as a civil enforcement officer.
- (3) Civil enforcement officers—
- (a) when exercising specified functions must wear such uniform as may be determined by the enforcement authority in accordance with guidelines issued by the appropriate national authority, and
 - (b) must not exercise any of those functions when not in uniform.

(4) In subsection (3)(a) “specified” means specified by regulations made by the appropriate national authority.

(5) A parking attendant appointed under section 63A of the Road Traffic Regulation Act 1984 (c. 27) by a local authority that is an enforcement authority—

(a) is a civil enforcement officer in relation to parking contraventions for which that authority is the enforcement authority, and

(b) may be appointed a civil enforcement officer in relation to other road traffic contraventions for which they are the enforcement authority.

[(6) In this section “local authority” includes a non-metropolitan district council.]¹

Notes

¹ Added by Local Transport Act 2008 c. 26 Pt 7 s.127(2) (January 26, 2009)

Commencement

Pt 6 s. 76-(5)(b): October 26, 2006 in relation to Wales; July 23, 2007 in relation to England (SI 2007/2053 art. 2(2)(c); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 76-(6): England, Wales

Law In Force

77 Setting the level of penalty charges

(1) Schedule 9 provides for the setting of the levels of penalty charges and certain other charges.

(2) In that Schedule—

Part 1 specifies the charges to which the Schedule applies,

Part 2 provides for charges applicable in Greater London, and

Part 3 provides for charges applicable outside Greater London.

Commencement

Pt 6 s. 77-(2): October 26, 2006 in relation to Wales; July 23, 2007 in relation to England (SI 2007/2053 art. 2(2)(d); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 77-(2): England, Wales

Notification, adjudication and enforcement

✔ Law In Force

78 Notification of penalty charge

- (1) The Lord Chancellor may make regulations for and in connection with the notification of penalty charges.
- (2) The regulations may provide for notification of a penalty charge to be given in respect of a stationary vehicle—
 - (a) by a notice affixed to the vehicle,
 - (b) by a notice given to a person appearing to be in charge of the vehicle, or
 - (c) in such other manner as may be specified by the regulations.
- (3) The regulations may provide for notification of a penalty charge otherwise than in respect of a stationary vehicle to be given in such manner as may be specified by the regulations.
- (4) The regulations may not confer power to stop vehicles.
- (5) The regulations may provide that, if it appears to the enforcement authority that both the operator of a vehicle and the person in control of the vehicle are liable to a penalty charge, they may give notice to the operator requiring him to provide them with the name and address of the person who was in control of the vehicle at the time of the alleged contravention.
- (6) The regulations may include provision creating criminal offences to be triable summarily and punishable with a fine not exceeding level 5 on the standard scale or such lower amount as may be specified.

Commencement

Pt 6 s. 78-(6): October 26, 2006 in relation to Wales; July 23, 2007 in relation to England (SI 2007/2053 art. 2(2)(e); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 78-(6): England, Wales

✔ Law In Force

[78A Notification of penalty charge: parking contraventions in England

- (1) Regulations under section 78 must include provision requiring notification of a penalty charge to be given by a notice affixed to the vehicle where the charge is in respect of a parking contravention on a road in a civil enforcement area in England.
- (2) The regulations may, however, provide that the requirement does not apply in circumstances specified in the regulations (which may be framed by reference to the type of contravention, the circumstances in which a contravention occurs or in any other way) and, where the regulations so provide, they may make any such alternative provision for notification as is authorised by section 78.

]¹

Notes

- ¹ Added by Deregulation Act 2015 c. 20 s.53(2) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; April 1, 2015 otherwise)

Extent

Pt 6 s. 78A(1)-(2): England, Wales

Law In Force

79 Immobilisation of vehicle where penalty charge payable

(1) The appropriate national authority may make provision by regulations for or in connection with—

- (a) the fixing of an immobilisation device to a stationary vehicle found in any place where there is reason to believe the vehicle has been permitted to remain at rest there in circumstances in which a penalty charge has become payable, and
- (b) the release of the vehicle from the device only on payment of—
 - (i) the penalty charge mentioned in paragraph (a),
 - (ii) such unpaid earlier penalty charges relating to the vehicle as may be specified in the regulations, and
 - (iii) the charge payable in respect of the release.

(2) The regulations may make provision authorising—

- (a) the fixing of an immobilisation device to the vehicle while it remains in the place where it was found, or
- (b) the moving of the vehicle to another place and the fixing of an immobilisation device to it in that other place,

and providing for any power of removal that was exercisable in relation to the vehicle before it was so moved to continue to be exercisable in relation to the vehicle while it remains in the place to which it was so moved.

(3) The regulations may provide—

- (a) that on any occasion when an immobilisation device is fixed to a vehicle in accordance with the regulations, the person fixing the device shall also fix to the vehicle a notice—
 - (i) indicating that such a device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion unless it has been released from the device;
 - (ii) specifying the steps to be taken in order to secure its release; and
 - (iii) giving such other information as may be specified by the regulations; and
- (b) that a notice fixed to a vehicle in accordance with the regulations shall not be removed or interfered with except by or under the authority of—
 - (i) the owner or person in charge of the vehicle, or
 - (ii) the enforcement authority,

and that a person contravening that prohibition commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(4) The regulations may also provide–

- (a) that a vehicle to which an immobilisation device has been fixed in accordance with the regulations may only be released from the device by or under the direction of a person authorised by the enforcement authority; and
- (b) that a person who, without being authorised to do so in accordance with the regulations, removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with the regulations commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) The regulations shall provide–

- (a) that an immobilisation device must not be fixed to a vehicle if a current disabled person's badge is displayed on the vehicle; and
- (b) that if, in a case in which an immobilisation device would have been fixed to a vehicle but for paragraph (a), the vehicle was not being used–
 - (i) in accordance with regulations under section 21 of the Chronically Sick and Disabled Persons Act 1970 (c. 44), and
 - (ii) in circumstances falling within section 117(1)(b) of the Road Traffic Regulation Act 1984 (c. 27) (use where a disabled person's concession would be available),the person in charge of the vehicle commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

[(5A) The regulations shall provide–

- (a) that an immobilisation device must not be fixed to a vehicle if a current recognised badge is displayed on the vehicle; and
- (b) that if, in a case in which an immobilisation device would have been fixed to a vehicle but for paragraph (a), the vehicle was not being used–
 - (i) in accordance with regulations under section 21A of the Chronically Sick and Disabled Persons Act 1970, and
 - (ii) in circumstances falling within section 117(1A)(b) of the Road Traffic Regulation Act 1984 (use where a disabled person's concession would be available by virtue of displaying a non-GB badge),the person in charge of the vehicle commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

] ¹

(6) The regulations shall also provide that an immobilisation device must not be fixed to a vehicle in a parking place in respect of a contravention consisting of, or arising out of, a failure–

- (a) to pay a parking charge with respect to the vehicle,
- (b) properly to display a ticket or parking device, or
- (c) to remove the vehicle from the parking space by the end of a period for which the appropriate charge was paid,

until 15 minutes have elapsed since the giving of a notification of a penalty charge in respect of the contravention.

(7) In this section–

“disabled person's badge” has the same meaning as in section 142(1) of the Road Traffic Regulation Act 1984;

“parking device” means a parking device within the meaning of section 35(3B) or 51(4) of that Act ; [...]²

“parking place” means–

- (a) a parking place designated by an order under section 45 of that Act, or
- (b) an off-street parking place provided under section 32(1)(a) or 57(1)(b), or under a letting or arrangement made under section 33(4), of that Act [; and]¹

[“recognised badge” has the meaning given by section 21A of the Chronically Sick and Disabled Persons Act 1970.]¹

Notes

¹ Amended by Disability Discrimination Act 2005 c. 13 Sch.1(2) para.48 (March 30, 2008 as SI 2007/3285)

² Word repealed by Disability Discrimination Act 2005 c. 13 Sch.2 para.1 (March 30, 2008 as SI 2007/3285)

Commencement

Pt 6 s. 79-(7) definition of "parking place" (b): October 26, 2006 in relation to Wales; July 23, 2007 in relation to England (SI 2007/2053 art. 2(2)(e); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 79-(7) definition of "recognised badge": England, Wales

Law In Force

80 Representations and appeals

(1) The Lord Chancellor may make provision by regulations entitling a person–

- (a) who is or may be liable to pay a penalty charge, or
- (b) who secures the release of a vehicle from an immobilisation device on payment of an amount in accordance with regulations under section 79,

to make representations to the enforcement authority and to appeal to an adjudicator if his representations are not accepted.

(2) The regulations may make such provision in connection with the rights conferred as appears to the Lord Chancellor to be appropriate, and may in particular make provision–

- (a) requiring the authority to give a person notice of the rights conferred by the regulations,
- (b) as to the grounds on which, and time within which, representations may be made,
- (c) requiring supporting evidence in such circumstances as may be specified,
- (d) as to the duties of the authority when representations are received,
- (e) as to the circumstances in which there is a right of appeal to an adjudicator,
- (f) generally as to the making, determination and effect of, and procedure in connection with, appeals, and
- (g) enabling an adjudicator to review any decision made on, or in the course of, an appeal.

(3) The regulations may provide that, as respects a ground on which representations may be made, the adjudicator's function on an appeal is to decide whether to direct the enforcement authority to consider or re-consider (as the case may be) any representations relating to that ground.

(4) The regulations may include provision–

- (a) authorising an adjudicator to require a person–
 - (i) to attend to give evidence at the hearing of an appeal, and

- (ii) to produce any documents in his custody or under his control relating to any matter relevant for the purposes of the appeal, and
 - (b) making it a criminal offence triable summarily and punishable with a fine not exceeding level 2 on the standard scale to fail to comply with such a requirement.
- (5) The regulations may provide that a person who makes a representation that is false in a material particular, and does so recklessly or knowing it to be false, commits an offence triable summarily and punishable with a fine not exceeding level 5 on the standard scale.
- (6) The regulations may include provision authorising an adjudicator to make an order for the payment of costs and expenses by a party to an appeal in such circumstances as may be specified.

Commencement

Pt 6 s. 80-(6): October 26, 2006 in relation to Wales; July 23, 2007 in relation to England (SI 2007/2053 art. 2(2)(e); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 80-(6): England, Wales

Law In Force

81 Adjudicators

- (1) The Lord Chancellor may make provision by regulations for and in connection with the appointment of adjudicators for the purposes of this Part.
- (2) The following provisions apply in relation to the office of adjudicator—
- (a) to be qualified for appointment as an adjudicator, a person must [satisfy the judicial-appointment eligibility condition on a 5-year basis;]¹
 - (b) an adjudicator is appointed for a term, not exceeding five years, specified in his instrument of appointment;
 - (c) on the expiry of a term of appointment an adjudicator is eligible for re-appointment;
 - (d) an adjudicator may be removed from office only for misconduct or on the ground that he is unable or unfit to discharge his functions, but otherwise holds and vacates office in accordance with the terms of his appointment.
- (3) The regulations shall provide—
- (a) for adjudicators to be appointed by the relevant enforcement authorities on such terms as those authorities may decide, and
 - [(b) for the consent of the Lord Chancellor to be required for any decision by those authorities to appoint a person as an adjudicator;
 - (c) for the consent of the Lord Chancellor and the Lord Chief Justice to be required for any decision by those authorities—
 - (i) not to re-appoint a person as an adjudicator, or
 - (ii) to remove a person from his office as an adjudicator.
-]²

[(3A) The regulations may provide for the Lord Chief Justice to nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise any of his functions under the regulations.]³

(4) The relevant enforcement authorities shall—
(a) provide, or make arrangements for the provision of, accommodation and administrative staff and facilities for adjudicators, and
(b) determine the places where adjudicators are to sit,
and shall defray all the expenses of the adjudication process and, in particular, expenses in relation to the remuneration of adjudicators.

(5) The regulations shall provide—
(a) for each adjudicator to make an annual report to the relevant enforcement authorities in accordance with such requirements as may be imposed by those authorities, and
(b) for those authorities to make and publish an annual report to the appropriate national authority on the discharge by the adjudicators of their functions.

(6) In this section “the relevant enforcement authorities” means the authorities who are enforcement authorities for the purposes of this Part in relation to road traffic contraventions (of any description).

(7) The regulations may provide for the functions of the relevant enforcement authorities under this section—
(a) to be discharged separately for Greater London, England (outside Greater London) and Wales;
(b) to be discharged by means of arrangements under section 101 of the Local Government Act 1972 (c. 70) (arrangements for discharge of functions by local authorities) or in such other way as the regulations may provide.

(8) The regulations may make provision—
(a) for treating adjudicators appointed before the commencement of this Part under section 73 of the Road Traffic Act 1991 (c. 40), or under regulations made under section 144 of the Transport Act 2000 (c. 38), as if they had been appointed under this section;
(b) for continuing in force for the purposes of this section any arrangements in force immediately before the commencement of this Part for the discharge of functions corresponding to the functions of relevant enforcement authorities under this section.

(9) The expenses of the relevant enforcement authorities under this section shall be defrayed by them in such proportions—
(a) as they may decide, or
(b) in default of a decision by them, as may be determined in accordance with regulations made—
(i) by the Secretary of State, or
(ii) if the functions of those authorities are discharged separately for Wales, by the appropriate national authority.

(10) Regulations under subsection (9)(b) may, in particular, provide—
(a) for the matter to be determined by an arbitrator appointed by a body specified in the regulations, and
(b) for the giving of directions by the Secretary of State or, as the case may be, the appropriate national authority in order to secure that the matter is referred to arbitration.

Notes

- ¹ Words substituted subject to transitional provisions specified in SI 2008/1653 art.3 by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch.10(1) para.39 (July 21, 2008: substitution has effect subject to transitional provisions specified in SI 2008/1653 art.3)
- ² S.81(3)(b) and (c) substituted for s.81(3)(b) by Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No.2) Order 2006/1016 Sch.1 para.19 (April 3, 2006)
- ³ Added by Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No.2) Order 2006/1016 Sch.1 para.20 (April 3, 2006)

Commencement

Pt 6 s. 81-(10)(b): October 26, 2006 in relation to Wales; July 23, 2007 in relation to England (SI 2007/2053 art. 2(2)(e); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 81-(10)(b): England, Wales

Law In Force

82 Enforcement of penalty charges

(1) The Lord Chancellor may make regulations for or in connection with the enforcement of penalty charges.

(2) The regulations may include provision—

- (a) creating criminal offences to be triable summarily and punishable with a fine not exceeding level 5 on the standard scale or such lower amount as may be specified;
- (b) for amounts payable under or by virtue of any provision of this Part to be recoverable, [if the county]¹ court so orders, as if they were payable under a county court order.

An amount to which paragraph (b) applies that is so recoverable is referred to below as a “traffic contravention debt”.

(3) The Lord Chancellor may by order make provision—

- (a) [...] ²
- (b) as to the requirements that must be satisfied before a person takes any other step of a kind specified in the order, with a view to enforcing the payment of—
 - (i) a traffic contravention debt, or
 - (ii) such class or classes of traffic contravention debts as may be so specified.

(4) Any such order may make such incidental and supplementary provision (including modifications of any enactment other than this Act) as the Lord Chancellor considers appropriate in consequence of the provision made by the order.

(5) Any order in force immediately before the commencement of this Part under section 78(2) of the Road Traffic Act 1991 (c. 40) shall have effect after that commencement as if made under the corresponding provisions of this section and shall apply in relation to the enforcement of any traffic contravention debt.

Notes

- ¹ Words substituted by Crime and Courts Act 2013 c. 22 Sch.9(3) para.135 (April 22, 2014: substitution has effect as SI 2014/954 subject to savings and transitional provisions specified in 2013 c.22 s.15 and Sch.8 and transitional provision specified in SI 2014/954 arts 2(c) and 3)
- ² Repealed by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch.23(3) para.1 (April 6, 2014 as SI 2014/768)

Commencement

Pt 6 s. 82-(5): October 26, 2006 in relation to Wales; July 23, 2007 in relation to England (SI 2007/2053 art. 2(2)(e); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 82-(5): England, Wales

R Repealed

83 [...]¹

Notes

- ¹ Repealed by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch.23(3) para.1 (April 6, 2014: repeal has effect as SI 2014/768 subject to savings specified in SI 2014/600 art.5)
-

Additional contraventions in special enforcement areas

✓ Law In Force

84 Designation of special enforcement areas

Schedule 10 provides for the designation of areas (“special enforcement areas”) where the following sections apply–

- section 85 (prohibition of double parking etc.);
- section 86 (prohibition of parking at dropped footways etc.).

Commencement

Pt 6 s. 84-: October 26, 2006 in relation to Wales; March 31, 2008 in relation to England (SI 2007/2053 art. 3(2)(c); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 84-: England, Wales

✔ Law In Force

85 Prohibition of double parking etc.

(1) In a special enforcement area a vehicle must not be parked on the carriageway in such a way that no part of the vehicle is within 50 centimetres of the edge of the carriageway.

This is subject to the following exceptions.

(2) The first exception is where the vehicle is parked wholly within a designated parking place or any other part of the carriageway where parking is specifically authorised.

A “designated parking place” means a parking place designated by order under section 6, 9, 32(1)(b) or 45 of the Road Traffic Regulation Act 1984 (c. 27).

(3) The second exception is where the vehicle is being used for [—]¹

[(a) for fire brigade or police purposes, or

(b) for ambulance purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service.

“An NHS ambulance service” means—

(a) an NHS trust or NHS foundation trust established under the National Health Service Act 2006 which has a function of providing ambulance services;

(b) an NHS trust established under the National Health Service (Wales) Act 2006 which has a function of providing ambulance services;

(c) the Scottish Ambulance Service Board.

] ¹

(4) The third exception is where—

(a) the vehicle is being used for the purposes of delivering goods to, or collecting goods from, any premises, or is being loaded from or unloaded to any premises,

(b) the delivery, collection, loading or unloading cannot reasonably be carried out in relation to those premises without the vehicle being parked as mentioned in subsection (1), and

(c) the vehicle is so parked for no longer than is necessary and for no more than 20 minutes.

(5) The fourth exception is where—

(a) the vehicle is being used in connection with any of the following—

(i) undertaking any building operation, demolition or excavation,

(ii) the collection of waste by a local authority,

(iii) removing an obstruction to traffic,

(iv) undertaking works in relation to a road, a traffic sign or road lighting, or

(v) undertaking works in relation to a sewer or water main or in relation to the supply of gas, electricity, water or communications services,

(b) it cannot be so used without being parked as mentioned in subsection (1), and

(c) it is so parked for no longer than is necessary.

(6) In this section “carriageway” has the meaning given by section 329(1) of the Highways Act 1980 (c. 66).

(7) References in this section to parking include waiting, but do not include stopping where—

(a) the driver is prevented from proceeding by circumstances beyond his control or it is necessary for him to stop to avoid an accident, or

(b) the vehicle is stopped, for no longer than is necessary, for the purpose of allowing people to board or alight from it.

(8) The prohibition in this section is enforceable as if imposed—

- (a) in Greater London, by an order under section 6 of the Road Traffic Regulation Act 1984;
- (b) elsewhere in England and Wales, by an order under section 1 of that Act.

[(9) In this section “local authority” includes a non-metropolitan district council.]²

Notes

¹ S.85(3)(a) and (b) and definition substituted for words by Deregulation Act 2015 c. 20 Sch.9 para.2 (May 26, 2015)

² Added by Local Transport Act 2008 c. 26 Pt 7 s.127(3) (January 26, 2009)

Commencement

Pt 6 s. 85-(8)(b): October 26, 2006 in relation to Wales; March 31, 2008 in relation to England (SI 2007/2053 art. 3(2)(c); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 85-(9): England, Wales

Law In Force

86 Prohibition of parking at dropped footways etc.

(1) In a special enforcement area a vehicle must not be parked on the carriageway adjacent to a footway, cycle track or verge where—

(a) the footway, cycle track or verge has been lowered to meet the level of the carriageway for the purpose of—

- (i) assisting pedestrians crossing the carriageway,
- (ii) assisting cyclists entering or leaving the carriageway, or
- (iii) assisting vehicles entering or leaving the carriageway across the footway, cycle track or verge; or

(b) the carriageway has, for a purpose within paragraph (a)(i) to (iii), been raised to meet the level of the footway, cycle track or verge.

This is subject to the following exceptions.

(2) The first exception is where the vehicle is parked wholly within a designated parking place or any other part of the carriageway where parking is specifically authorised.

A “designated parking place” means a parking place designated by order under section 6, 9, 32(1)(b) or 45 of the Road Traffic Regulation Act 1984 (c. 27).

(3) The second exception is where the vehicle is parked outside residential premises by or with the consent (but not consent given for reward) of the occupier of the premises.

This exception does not apply in the case of a shared driveway.

(4) The third exception is where the vehicle is being used [—]¹

- [(a) for fire brigade or police purposes, or
- (b) for ambulance purposes or for the purpose of providing a response to an emergency at the request of an NHS ambulance service.

“An NHS ambulance service” means—

- (a) an NHS trust or NHS foundation trust established under the National Health Service Act 2006 which has a function of providing ambulance services;
- (b) an NHS trust established under the National Health Service (Wales) Act 2006 which has a function of providing ambulance services;
- (c) the Scottish Ambulance Service Board.

] ¹

(5) The fourth exception is where—

- (a) the vehicle is being used for the purposes of delivering goods to, or collecting goods from, any premises, or is being loaded from or unloaded to any premises,
- (b) the delivery, collection, loading or unloading cannot reasonably be carried out in relation to those premises without the vehicle being parked as mentioned in subsection (1), and
- (c) the vehicle is so parked for no longer than is necessary and for no more than 20 minutes.

(6) The fifth exception is where—

- (a) the vehicle is being used in connection with any of the following—
 - (i) undertaking any building operation, demolition or excavation,
 - (ii) the collection of waste by a local authority,
 - (iii) removing an obstruction to traffic,
 - (iv) undertaking works in relation to a road, a traffic sign or road lighting, or
 - (v) undertaking works in relation to a sewer or water main or in relation to the supply of gas, electricity, water or communications services,
- (b) it cannot be so used without being parked as mentioned in subsection (1), and
- (c) it is so parked for no longer than is necessary.

(7) In this section “carriageway”, “cycle track” and “footway” have the meanings given by section 329(1) of the Highways Act 1980 (c. 66).

(8) References in this section to parking include waiting, but do not include stopping where—

- (a) the driver is prevented from proceeding by circumstances beyond his control or it is necessary for him to stop to avoid an accident, or
- (b) the vehicle is stopped, for no longer than is necessary, for the purpose of allowing people to board or alight from it.

(9) The prohibition in this section is enforceable as if imposed—

- (a) in Greater London, by an order under section 6 of the Road Traffic Regulation Act 1984 (c. 27),
- (b) elsewhere in England and Wales, by an order under section 1 of that Act.

[(10) In this section “local authority” includes a non-metropolitan district council.] ²

Notes

¹ S.86(4)(a) and (b) and definition substituted for words by Deregulation Act 2015 c. 20 Sch.9 para.3 (May 26, 2015)

² Added by Local Transport Act 2008 c. 26 Pt 7 s.127(4) (January 26, 2009)

Commencement

Pt 6 s. 86-(9)(b): October 26, 2006 in relation to Wales; March 31, 2008 in relation to England (SI 2007/2053 art. 3(2)(c); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 86-(10): England, Wales

Supplementary

Law In Force

87 Guidance to local authorities

(1) The appropriate national authority may publish guidance to local authorities about any matter relating to their functions in connection with the civil enforcement of traffic contraventions.

(2) In exercising those functions a local authority must have regard to any such guidance.

[(3) In this section “local authority” includes a non-metropolitan district council.]¹

Notes

¹ Added by Local Transport Act 2008 c. 26 Pt 7 s.127(5) (January 26, 2009)

Commencement

Pt 6 s. 87-(2): October 26, 2006 in relation to Wales; July 23, 2007 in relation to England (SI 2007/2053 art. 2(2)(f); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 87-(3): England, Wales

Law In Force

[87A Power to prohibit use of devices etc: parking contraventions in England

(1) The Secretary of State may by regulations make provision to prohibit the use by civil enforcement officers of a device of a description specified in the regulations, or of records produced by such a device, in connection with the enforcement of parking contraventions on a road in a civil enforcement area in England.

(2) The prohibition may be—

- (a) general, or
- (b) limited to particular uses specified in the regulations.

(3) The regulations may provide that a general or limited prohibition does not apply in circumstances specified in the regulations (which may be framed by reference to the type of contravention, the circumstances in which a contravention occurs or in any other way).

(4) Regulations under this section may amend this Part or any provision made under it.

] ¹

Notes

- ¹ Added by Deregulation Act 2015 c. 20 s.53(3) (March 26, 2015 so far as is necessary for enabling the exercise on or after that day of any power to make provision by an order or regulations made by statutory instrument; April 1, 2015 otherwise)

Extent

Pt 6 s. 87A(1)-(4): England, Wales

Law In Force

88 Financial provisions

- (1) The appropriate national authority may make provision by regulations—
- (a) requiring the keeping of accounts, and the preparation and publication of statements of account, of the income and expenditure of enforcement authorities in connection with their functions under this Part, and
 - (b) as to the purposes for which any surpluses may be applied.
- (2) The regulations may provide—
- (a) for separate accounts to be kept in respect of an authority's functions in relation to different descriptions of contravention, and
 - (b) for accounts to be kept in respect of an authority's income and expenditure in respect of functions under this Part and such other functions as may be specified in the regulations.
- (3) The regulations may provide that section 55 of the Road Traffic Regulation Act 1984 (financial provisions relating to income and expenditure from parking places) applies in relation to income and expenditure of enforcement authorities in connection with their functions under this Part of this Act in relation to parking contraventions, subject to such modifications as may be specified in the regulations.
- (4) The regulations may provide for carrying forward a surplus arising before the commencement of this Part on an account kept under—
- (a) section 55 of the Road Traffic Regulation Act 1984 as modified by an order under Schedule 3 to the Road Traffic Act 1991 (c. 40) (parking contraventions),
 - (b) regulations under section 144 of the Transport Act 2000 (c. 38) (bus lane contraventions), or
 - (c) Schedule 2 to the London Local Authorities and Transport for London Act 2003 (c. iii) (London lorry ban contraventions or moving traffic contraventions).

Commencement

Pt 6 s. 88-(4)(c): October 26, 2006 in relation to Wales; July 23, 2007 in relation to England (SI 2007/2053 art. 2(2)(f); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 88-(4)(c): England, Wales

✔ Law In Force

89 Regulations and orders

- (1) Regulations and orders under this Part may make provision for Greater London different from that made for the rest of England.
- (2) Regulations and orders under this Part made by the Lord Chancellor may make provision for Wales different from that made for England.
- (3) Regulations and orders under this Part may contain incidental, consequential or transitional provision or savings.
- (4) Regulations and orders under this Part made by a Minister of the Crown or by the National Assembly for Wales shall be made by statutory instrument.
- (5) Regulations under section 80 may not be made unless a draft of them has been laid before and approved by a resolution of each House of Parliament.
- (6) Subject to that, a statutory instrument containing regulations or an order under this Part made by a Minister of the Crown is subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement

Pt 6 s. 89-(6): October 26, 2006 in relation to Wales; July 23, 2007 in relation to England (SI 2007/2053 art. 2(2)(f); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 89-(6): England, Wales

✔ Law In Force

90 Application to Crown and visiting forces

- (1) This Part does not apply in relation to a vehicle that—
 - (a) at the relevant time is used or appropriated for use for naval, military or airforce purposes, or
 - (b) belongs to any visiting forces (within the meaning of the Visiting Forces Act 1952 (c. 67)) or is at the relevant time used or appropriated for use by any such forces.
- (2) The provisions of this Part apply to—
 - (a) vehicles in the public service of the Crown that are required to be registered under the Vehicle Excise and Registration Act 1994 (c. 22) (other than those exempted by subsection (1)(a) above), and
 - (b) persons in the public service of the Crown.
- (3) This Part does not apply in relation to Crown roads within the meaning of section 131 of the Road Traffic Regulation Act 1984 (c. 27) (application of road traffic enactments to Crown roads) unless applied by order under that section.

Commencement

Pt 6 s. 90-(3): October 26, 2006 in relation to Wales; July 23, 2007 in relation to England (SI 2007/2053 art. 2(2)(f); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 90-(3): England, Wales

Law In Force

91 Consequential amendments

Schedule 11 provides for amendments consequential on the provisions of this Part.

Commencement

Pt 6 s. 91-: October 26, 2006 in relation to Wales; July 23, 2007 in relation to England for the provision specified in SI 2007/2053 art.2(2)(g); March 31, 2008 in relation to England for provisions specified in SI 2007/2053 art.3(2)(g) (SI 2007/2053 art. 2(2)(g); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 91-: England, Wales

Law In Force

92 Minor definitions

(1) In this Part–

“appropriate national authority” means–

- (a) as regards England, the Secretary of State, and
- (b) as regards Wales, the National Assembly for Wales;

“approved device” means a device of a description specified in an order made by the appropriate national authority;

“fixed penalty notice” has the meaning given by section 52(1) of the Road Traffic Offenders Act 1988 (c. 53);

“GLA road” means–

- (a) a GLA road within the meaning of the Highways Act 1980 (c. 66) (see sections 329(1) and 14D(1) of that Act), or
- (b) a GLA side road within the meaning of the Road Traffic Regulation Act 1984 (c. 27) (see sections 124A(9) and 142(1) of that Act);

;

“immobilisation device” has the same meaning as in section 104(9) of the Road Traffic Regulation Act 1984;

“local authority” means–

- (a) as regards England, a county council, a London authority, a metropolitan district council or the Council of the Isles of Scilly,
- (b) as regards Wales, a county or county borough council;

;

“London authority” means a London local authority or Transport for London;

“London local authority” means a London borough council or the Common Council of the City of London;

“operator”, in relation to a vehicle, means a person who holds an operator's licence in respect of the vehicle under section 2 of the Goods Vehicles (Licensing of Operators) Act 1995 (c. 23);

“owner”, in relation to a vehicle, means the person by whom the vehicle is kept, which in the case of a vehicle registered under the Vehicle Excise and Registration Act 1994 (c. 22) is presumed (unless the contrary is proved) to be the person in whose name the vehicle is registered;

“penalty charge” means a penalty charge imposed under this Part;

“road” has the same meaning as in the Road Traffic Regulation Act 1984;

“subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30) (see section 21(1) of that Act);

“traffic sign” has the meaning given by section 64 of the Road Traffic Regulation Act 1984.

(2) Any reference in this Part to contravention of an order, or of provision made by or under an order, includes a failure to comply with the order or provision.

Commencement

Pt 6 s. 92-(2): October 26, 2006 in relation to Wales; July 23, 2007 in relation to England (SI 2007/2053 art. 2(2)(h); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 92-(2): England, Wales

Law In Force

93 Index of defined expressions

In this Part the expressions listed below are defined or otherwise explained by the provisions indicated—

appropriate national authority	section 92
approved device	section 92
bus lane contravention	Part 2 of Schedule 7
civil enforcement area	Schedule 8
civil enforcement officer	Section 76
enforcement authority	Schedule 8
fixed penalty notice	section 92
GLA road	section 92
immobilisation device	section 92
local authority	section 92
London local authority	section 92
London lorry ban contravention	Part 3 of Schedule 7

moving traffic contravention	Part 4 of Schedule 7
operator	section 92
owner	section 92
parking contravention	Part 1 of Schedule 7
penalty charge	section 92
road	section 92
road traffic contravention	Schedule 7
special enforcement area	Schedule 10
subordinate legislation	section 92
traffic sign	section 92

Commencement

Pt 6 s. 93-: October 26, 2006 in relation to Wales; July 23, 2007 in relation to England (SI 2007/2053 art. 2(2)(h); SI 2006/2826 art. 2(2)(c))

Extent

Pt 6 s. 93-: England, Wales

PART 7

MISCELLANEOUS AND GENERAL

Law In Force

94 Power to inspect blue badges

(1) Section 21 of the Chronically Sick and Disabled Persons Act 1970 (c. 44) (badges for display on motor vehicles used by disabled persons) is amended as follows.

(2) In subsection (4B) after “a badge” there is inserted “purporting to be”.

(3) After subsection (4B) there is inserted–

“(4BA) Where it appears to a constable or enforcement officer that there is displayed on any motor vehicle a badge purporting to be of a form prescribed under this section, he may require any person who–

(a) is in the vehicle, or

(b) appears to have been in, or to be about to get into, the vehicle,

to produce the badge for inspection.

(4BB) In subsection (4BA) “enforcement officer” means–

(a) a traffic warden;

(b) a civil enforcement officer (within the meaning of section 76 of the Traffic Management Act 2004);

(c) a parking attendant (within the meaning of section 63A of the Road Traffic Regulation Act 1984).

(4BC) The power conferred on an enforcement officer by subsection (4BA) is exercisable only for purposes connected with the discharge of his functions in relation to a stationary vehicle.

(4BD) A person who without reasonable excuse fails to produce a badge when required to do so under subsection (4BA) shall be guilty of an offence.”

(4) In subsection (4C) after “(4B)” there is inserted “or (4BD)”.

(5) In section 117 of the Road Traffic Regulation Act 1984 (c. 27) (wrongful use of disabled person's badge), in subsection (1)(a) after “badge” there is inserted “purporting to be”.

Commencement

Pt 7 s. 94-(5): September 29, 2006 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2006/2826 art. 2(2)(d); SI 2006/1736 art. 2)

Extent

Pt 7 s. 94-(5): England, Wales

Law In Force

95 Application of surplus income from parking places

(1) Section 55 of the Road Traffic Regulation Act 1984 (financial provisions relating to income and expenditure of local authority in connection with parking places) is amended as follows.

(2) In subsection (4), for paragraph (d) (purposes for which surplus may be applied if further off-street parking not needed) substitute—

“(d) if it appears to the local authority that the provision in their area of further off-street parking accommodation is unnecessary or undesirable, the following purposes—

- (i) meeting costs incurred, whether by the local authority or by some other person, in the provision or operation of, or of facilities for, public passenger transport services,
- (ii) the purposes of a highway or road improvement project in the local authority's area,
- (iii) in the case of a London authority, meeting costs incurred by the authority in respect of the maintenance of roads maintained at the public expense by them,
- (iv) the purposes of environmental improvement in the local authority's area,
- (v) in the case of such local authorities as may be prescribed, any other purposes for which the authority may lawfully incur expenditure;”

(3) After subsection (4A) insert—

- “(4B) For the purposes of subsection (4)(d)(iv) “environmental improvement” includes—
- (a) the reduction of environmental pollution (as defined in the Pollution Prevention and Control Act 1999 (c. 24); see section 1(2) and (3) of that Act);
 - (b) improving or maintaining the appearance or amenity of—
 - (i) a road or land in the vicinity of a road, or
 - (ii) open land or water to which the general public has access; and
 - (c) the provision of outdoor recreational facilities available to the general public without charge.
- (4C) Regulations for the purposes of subsection (4)(d)(v) above—
- (a) may prescribe all local authorities, particular authorities or particular descriptions of authority,
 - (b) may make provision by reference to whether the authority or authorities in question have been classified for the purposes of any other enactment as falling or not falling within a particular category, and
 - (c) may make provision for the continued application of that provision, in prescribed cases and to such extent as may be prescribed, where an authority that is prescribed or of a prescribed description ceases to be so.”.

(4) [...] ¹

Notes

¹ Repealed by Local Audit and Accountability Act 2014 c. 2 Sch.12 para.123(a) (April 1, 2015)

Commencement

Pt 7 s. 95-(4): October 4, 2004 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2006/2826 art. 2(2)(d); SI 2004/2380 art. 2(f))

Extent

Pt 7 s. 95-(4): England, Wales

Law In Force

96 Wales

References in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) to—

- (a) the Highways Act 1980 (c. 66),
- (b) the Road Traffic Regulation Act 1984 (c. 27), and
- (c) the New Roads and Street Works Act 1991 (c. 22),


are to be treated as references to those Acts as amended by this Act.

Commencement

Pt 7 s. 96-(c): October 26, 2006 in relation to Wales; June 29, 2007 in relation to England (SI 2007/1890 Pt 1 art. 2; SI 2006/2826 art. 2(2)(d))

Extent

Pt 7 s. 96-(c): England, Wales

 Partially In Force

97 Financial provision

(1) There shall be paid out of money provided by Parliament—

(a) any expenditure incurred by the Secretary of State in respect of—

- (i) traffic officers designated under Part 1 (including expenditure relating to the provision of financial assistance under section 14 or other expenditure relating to the provision of equipment, accommodation or other facilities);
- (ii) the establishment and operation of regional centres for the management of traffic on his road network;
- (iii) the provision, for purposes connected with the management of traffic on his road network, of information or advice to the public;
- (iv) other activities carried out for purposes connected with the management of traffic on his road network;

(b) any other expenditure incurred by the Secretary of State in consequence or by virtue of this Act;

(c) any increase attributable to this Act in the sums payable out of money so provided by virtue of any other Act.


(2) In this section references to the Secretary of State's road network are to the network of roads in England for which he is the traffic authority (within the meaning of the Road Traffic Regulation Act 1984).

Commencement

Pt 7 s. 97(1)-(2): October 4, 2004 in relation to England; not yet in force otherwise (SI 2004/2380 art. 2(g))

Extent

Pt 7 s. 97(1)-(2): England, Wales

 Partially In Force

98 Repeals

Schedule 12 contains repeals.

Commencement

Pt 7 s. 98-: October 4, 2004 in relation to England for the provisions specified in SI 2004/2380 art.2(h); October 26, 2006 in relation to Wales for the provisions specified in SI 2006/2826 art.2(2)(e); March 31, 2008 in relation to England for repeals specified in SI 2007/2053 art.3(2)(h); March 31, 2008 in relation to Wales for the provisions specified in SI 2007/3174 Sch.1; not yet in force otherwise (SI 2006/2826 art. 2(2)(e); SI 2004/2380 art. 2(h))

Extent

Pt 7 s. 98-: England, Wales

Law In Force

99 Commencement, transitionals and savings

(1) The preceding provisions of this Act shall come into force on such day as the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may appoint by order made by statutory instrument.

(2) Different days may be appointed for different purposes.

(3) For the purposes of Part 6 (civil enforcement of road traffic contraventions), and related repeals, different days may be appointed for different areas.

(4) The Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may by order made by statutory instrument make transitional provision or savings in connection with the coming into force of any provision of this Act.

Commencement

Pt 7 s. 99(1)-(4): July 22, 2004

Extent

Pt 7 s. 99(1)-(4): England, Wales

Law In Force

100 Short title and extent

(1) This Act may be cited as the Traffic Management Act 2004.

(2) This Act extends to England and Wales only.

Commencement

Pt 7 s. 100(1)-(2): July 22, 2004

Extent

Pt 7 s. 100(1)-(2): England, Wales

SCHEDULE 1**INCREASE IN MAXIMUM FINES FOR CERTAIN SUMMARY OFFENCES UNDER THE 1991 ACT****Section 40**

Law In Force

<i>Provision specifying fine</i>	<i>Brief description of offence or offences to which the fine relates</i>	<i>New maximum fine</i>
Section 51(2)	Offences under s. 51(1) (prohibition of authorised street works)	level 5
Section 54(5)	Failure to comply with duties under s.54 (advance notice of certain works, etc.)	level 4
Section 55(5)	Beginning to execute works in contravention of s. 55 (notice of starting date of works)	level 4
Section 56(3)	Execution of works in contravention of direction under s. 56 (directions as to timing of street works)	level 5
Section 57(4)	Failure to give notice in accordance with s. 57 (notice of emergency works)	level 4
Section 58(6)(a)	Carrying out works in contravention of a restriction imposed under s. 58 (restriction on works following substantial road works)	level 5
Section 60(3)	Failure to comply with duty under s. 60(1) (general duty of undertakers to co-operate)	level 5
Section 65(4)	Failure to comply with s. 65(1) or (2) (safety measures)	level 5
Section 65(6)	Interference with safety measures taken by undertaker	level 5
Section 66(2)	Failure to comply with s. 66(1) (duty to carry on and complete certain street works with all reasonably practicable dispatch)	level 5
Section 67(3)	Failure to comply with s.67(1), (2) or (2C) (duties relating to the use of qualified supervisors and operatives)	level 5
Section 68(2)	Failure by undertaker to afford street authority with reasonable facilities for ascertaining whether he is complying with his duties under Part 3	level 4
Section 69(2)	Failure to comply with s. 69(1) (requirements relating to street works likely to affect another person's apparatus in the street)	level 4
Section 71(5)	Failure to comply with duties under s. 71 (prescribed requirements as to materials and workmanship and performance standards for reinstatements)	level 5
Section 79(4)	Failure to comply with duties under s. 79(1) to (3) (records of location of apparatus)	level 5
Section 80(4)	Failure to comply with s. 80(1) (duty to inform other undertaker of location of certain apparatus) or requirements imposed under s.80(2) (duties applicable where ownership of certain apparatus cannot be ascertained)	level 4
Section 83(3)	Failure by authority to comply with s. 83(2) (requirements relating to certain road works likely to affect apparatus in the street)	level 4
Section 92(2)	Failure to comply with a special requirement as to the displaying of lights imposed by a transport authority under s. 92(1)	level 5
Schedule 3, paragraph 5(3)	Failure to comply with obligation under paragraph 5 (obligations to give notice to street authority)	level 4
Schedule 4, paragraph 6	Execution of works in street with special engineering difficulties in contravention of paragraph 2 (requirement for agreed plan and section before executing works) or paragraph 3 (requirement to furnish plan and section after emergency works)	level 5

<i>Provision specifying fine</i>	<i>Brief description of offence or offences to which the fine relates</i>	<i>New maximum fine</i>
Schedule 4, paragraph 12(5)	Failure to execute works in such a street in accordance with a direction under paragraph 12	level 5
Schedule 4, paragraph 13(2)	Failure to comply with paragraph 13(1) (requirement to execute works in such a street in accordance with plan or agreed modification)	level 5

Commencement

Sch. 1 para. 1: October 4, 2004 in relation to England; November 26, 2007 in relation to Wales (SI 2007/3174 Sch. 1 para. 1; SI 2004/2380 art. 2(d)(i))

Extent

Sch. 1 para. 1: England, Wales

SCHEDULE 2

SCHEDULE 4A TO THE NEW ROADS AND STREET WORKS ACT 1991

Section 41

Law In Force

“SCHEDULE 4A

FIXED PENALTY OFFENCES UNDER PART 3

Section 95A

<i>Offence</i>	<i>Brief description</i>
An offence under section 54(5)	Failure to comply with duties under s. 54 (advance notice of certain works, etc.)
An offence under section 55(5)	Beginning to execute works in contravention of s. 55 (notice of starting date)
An offence under section 55(9)	Failure to give notice in accordance with s. 55(8) (notice to be given on s. 55 notice ceasing to have effect)
An offence under section 57(4)	Failure to give notice in accordance with s. 57 (notice of emergency works)
An offence under section 70(6) consisting of a failure to comply with subsection (3) or (4A)	Failure to comply with requirements to give notice of completion of reinstatement
An offence created by regulations made under section 74(7B)	Failure to give a notice required by regulations under s. 74 (charge for occupation of the highway where works unreasonably delayed)

<i>Offence</i>	<i>Brief description</i>
An offence created by regulations made under section 74A(11)	Failure to give a notice required by regulations under s. 74A (charge determined by reference to duration of works)"

Commencement

Sch. 2 para. 1-: May 12, 2008 in relation to England; May 12, 2008 in relation to Wales (SI 2007/1890 Sch. 1 para. 1, Pt 1 art. 2)

Extent

Sch. 2 para. 1-: England, Wales

SCHEDULE 3**SCHEDULE 4B TO THE NEW ROADS AND STREET WORKS ACT 1991****Section 41**

Law In Force

“SCHEDULE 4B**FIXED PENALTIES FOR CERTAIN OFFENCES UNDER PART 3****Section 95A**

Power to give fixed penalty notices

1

(1) An authorised officer of a street authority may, if he has reason to believe that a person is committing or has committed a fixed penalty offence, give him a fixed penalty notice in relation to that offence.

(2) In this Schedule “fixed penalty notice” means a notice offering a person the opportunity of discharging any liability to conviction for a fixed penalty offence by payment of a penalty.

2

A fixed penalty notice for an offence may not be given after such time relating to the offence as the Secretary of State may by regulations prescribe.

Contents of fixed penalty notice

3

- (1) A fixed penalty notice must identify the offence to which it relates and give reasonable particulars of the circumstances alleged to constitute that offence.
- (2) A fixed penalty notice must also state—
 - (a) the amount of the penalty and the period within which it may be paid;
 - (b) the discounted amount and the period within which it may be paid;
 - (c) the person to whom and the address at which payment may be made;
 - (d) the method or methods by which payment may be made;
 - (e) the person to whom and the address at which any representations relating to the notice may be addressed;
 - (f) the consequences of not making a payment within the period for payment.
- (3) The person specified under sub-paragraph (2)(c) must be the street authority or a person acting on their behalf.

The amount of the penalty and the period for payment

4

- (1) The penalty for a fixed penalty offence is (subject to paragraph 5) such amount, not exceeding 30 per cent. of the maximum fine for that offence, as may be prescribed.
- (2) The period for payment of the penalty is the period of 29 days beginning with the day on which the notice is given.
- (3) The street authority may extend the period for paying the penalty in any particular case if they consider it appropriate to do so.

The discounted amount

5

- (1) A discounted amount is payable instead of the amount prescribed under paragraph 4(1) if payment is made before the end of the period of 15 days beginning with the day on which the notice is given.
- (2) The discounted amount for a fixed penalty offence is such amount, not exceeding 25 per cent. of the maximum fine for the offence, as may be prescribed.
- (3) If the last day of the period specified in sub-paragraph (1) does not fall on a working day, the period for payment of the discounted amount is extended until the end of the next working day.

Effect of notice and payment of penalty

6

- (1) This paragraph applies where a person is given a fixed penalty notice in respect of a fixed penalty offence.
- (2) No proceedings for the offence may be commenced before the end of the period for payment of the penalty.
- (3) No such proceedings may be commenced or continued if payment of the penalty is made before the end of that period or is accepted by the street authority after that time.
- (4) Payment of the discounted amount only counts for the purposes of sub-paragraph (3) if it is made before the end of the period for payment of the discounted amount.
- (5) In proceedings for the offence a certificate which—
 - (a) purports to be signed by or on behalf of the person having responsibility for the financial affairs of the street authority; and
 - (b) states that payment of an amount specified in the certificate was or was not received by a date so specified,is evidence of the facts stated.

Power to withdraw notices

7

- (1) If the street authority consider that a fixed penalty notice which has been given ought not to have been given, they may give to the person to whom it was given a notice withdrawing the fixed penalty notice.
- (2) Where a notice under sub-paragraph (1) is given—
 - (a) the authority shall repay any amount which has been paid by way of penalty in pursuance of the fixed penalty notice; and
 - (b) no proceedings shall be commenced or continued against that person for the offence in question.
- (3) The street authority shall consider any representations made by or on behalf of the recipient of a fixed penalty notice and decide in all the circumstances whether to withdraw the notice.

General and supplementary

8

- The Secretary of State may, with the consent of the Treasury, make regulations about—
- (a) the application by street authorities of fixed penalties paid under this Schedule;
 - (b) the keeping of accounts, and the preparation and publication of statements of account, relating to fixed penalties paid under this Schedule.

9

The Secretary of State may by regulations–

- (a) prescribe circumstances in which fixed penalty notices may not be given;
- (b) modify paragraph 4(2) or 5(1) so as to substitute a different period for the period for the time being specified there;
- (c) prescribe the method or methods by which penalties may be paid.”

Commencement

Sch. 3 para. 1-: June 29, 2007 in relation to England for the purpose of conferring power to make orders as specified in SI 2007/1890 Sch.1; November 26, 2007 in relation to Wales for the purpose of conferring power to make orders as specified in SI 2007/3174 Sch.1; May 12, 2008 otherwise (SI 2007/1890 Sch. 1 para. 1, Pt 1 art. 2)

Extent

Sch. 3 para. 1-: England, Wales

SCHEDULE 4**SCHEDULE 3A TO THE NEW ROADS AND STREET WORKS ACT 1991****Section 52**

Law In Force

“SCHEDULE 3A**RESTRICTION ON WORKS FOLLOWING SUBSTANTIAL STREET WORKS****1 Introductory**

- (1) This Schedule applies where a street authority receive a notice under section 54 or 55 that an undertaker is proposing to execute substantial street works in a highway.
- (2) For the purposes of this Schedule, “substantial street works” means street works of such description as may be prescribed.

2 Notice by authority of proposed restriction

- (1) The street authority may publish a notice–
 - (a) specifying the nature and location of the proposed works and the date on which it is proposed to begin them;
 - (b) stating that the authority propose to issue a direction under paragraph 4 imposing a restriction on street works;
 - (c) stating the duration of the proposed restriction and the part of the highway to which it relates;

- (d) requiring any other undertakers who propose to execute street works in that part of the highway, and who have not already done so, to notify the authority of their proposed works within the period specified in the notice (“the notice period”).
- (2) The notice period shall not be less than such period as may be prescribed.
- (3) A notice under this paragraph shall—
- (a) be published in the prescribed form and manner; and
 - (b) comply with such requirements as to its form and content as may be prescribed.
- (4) A copy of a notice under this paragraph shall be given to each of the following—
- (a) where there is a public sewer in the part of the highway specified under sub-paragraph (1)(c), to the sewer authority;
 - (b) where that part of the highway is carried or crossed by a bridge vested in a transport authority, or crosses or is crossed by any other property held by or used for the purposes of a transport authority, to that authority;
 - (c) where in any other case that part of the highway is carried or crossed by a bridge, to the bridge authority;
 - (d) any person who has given notice under section 54 of his intention to execute street works in that part of the highway;
 - (e) any person who has apparatus in that part of the highway;
 - (f) any other person of a prescribed description.
- (5) Notification under sub-paragraph (1)(d) shall be in such form, contain such information, and be made in such manner as may be prescribed.
- (6) Section 55 does not apply in relation to works in the part of the highway specified under sub-paragraph (1)(c) that are begun between the end of the notice period and completion of the works referred to in paragraph 3(1)(a) to (c).
This sub-paragraph does not apply to cases prescribed under paragraph 3(5)(b).

3 Completion of notified works

- (1) After the expiry of the notice period the street authority may issue directions to—
- (a) the undertaker proposing to execute the substantial street works,
 - (b) any undertakers who have given notice under paragraph 2 in respect of works they propose to execute, and
 - (c) any undertakers who have previously given notice of works they propose to execute in the part of the highway specified under paragraph 2(1)(c).
- (2) A direction to an undertaker under this paragraph is a direction as to the date on which he may begin to execute the works proposed by him.
- (3) Where—
- (a) a direction is given to an undertaker under this paragraph as respects the date on which he may begin to execute the works proposed by him, and
 - (b) he begins to execute those works before that date,
- he is guilty of an offence.
- (4) After the expiry of the notice period, any undertaker who, before completion of the works referred to in sub-paragraph (1)(a) to (c), executes any other street works in the part of the highway specified under paragraph 2(1)(c), commits an offence.

- (5) Sub-paragraph (4) does not apply–
- (a) where an undertaker executes emergency works; or
 - (b) in such other cases as may be prescribed.
- (6) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

4 Direction restricting further works

- (1) After the expiry of the notice period and before completion of the works referred to in paragraph 3(1)(a) to (c) the authority may give a direction under this paragraph.
- (2) A direction under this paragraph is a direction restricting the execution of street works in the part of the highway specified under paragraph 2(1)(c) for such period following completion of the works referred to in paragraph 3(1)(a) to (c) as may be specified in the direction.
- (3) The duration of the period specified under sub-paragraph (2) may not exceed the duration of the restriction proposed by the authority under paragraph 2(1)(c).
- (4) The period specified in a direction under this paragraph may not in any case exceed such period as may be prescribed.
- (5) A direction under this paragraph shall–
- (a) be given in the prescribed manner;
 - (b) comply with such requirements as to its form and content as may be prescribed.
- (6) The street authority must send a copy of any direction under this paragraph to the persons specified in paragraph 2(4).
- (7) A direction under this paragraph shall cease to have effect if the works referred to in paragraph 3(1)(a) to (c) to which it relates are not completed within such period as may be prescribed.
- (8) A direction under this paragraph may be revoked at any time by the authority which gave it.
- (9) Where a direction under this paragraph ceases to have effect by virtue of sub-paragraph (7), or is revoked by virtue of sub-paragraph (8), the street authority must notify the persons specified in paragraph 2(4).
- (10) If the street authority decides not to give a direction under this paragraph, it must notify the persons specified in paragraph 2(4) accordingly.

5 Effect of direction imposing restriction

- (1) Where a direction under paragraph 4 is in force, an undertaker may not during the period specified in the direction execute street works in the part of the highway to which the restriction relates.
- (2) Sub-paragraph (1) does not apply–
- (a) where an undertaker executes emergency works;
 - (b) where an undertaker executes works with the consent of the street authority; or

(c) in such other cases as may be prescribed.

(3) The consent of the street authority under sub-paragraph (2)(b) shall not be unreasonably withheld; and any question whether the withholding of consent is unreasonable shall be settled in such manner as may be prescribed.

(4) Regulations under sub-paragraph (3) may in particular make provision for the question referred to in that sub-paragraph to be settled—

(a) by arbitration;

(b) by a person specified by the Secretary of State on appeal by the undertaker.

(5) An undertaker who contravenes sub-paragraph (1) commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) An undertaker convicted of an offence under sub-paragraph (5) is liable to reimburse the street authority any costs reasonably incurred by them in reinstating the highway.

6 Supplementary

An undertaker shall be taken not to have failed to fulfil any statutory duty to afford a supply or service if, or to the extent that, his failure is attributable to a restriction imposed under this Schedule.”

Commencement

Sch. 4 para. 1-: June 29, 2007 in relation to England for the purpose of conferring power to make regulations as specified in SI 2007/1890 Sch.1; November 26, 2007 in relation to Wales for the purpose of conferring power to make regulations as specified in SI 2007/3174 Sch.1; April 1, 2008 otherwise (SI 2007/1890 Sch. 1 para. 1, Pt 1 art. 2)

Extent

Sch. 4 para. 1-: England, Wales

SCHEDULE 5

SCHEDULE 22A TO THE HIGHWAYS ACT 1980

Section 64

N Not Yet In Force

“SCHEDULE 22A

FIXED PENALTY OFFENCES UNDER PART 9

Section 314A

<i>Offence</i>	<i>Brief description</i>
An offence under section 139(3)	Deposit of builder's skip on highway without permission of highway authority.
An offence under section 139(4)	Failure of owner of skip to ensure skip properly lit and marked and removed as soon as practicable once filled or to ensure conditions of permission complied with.
An offence created by regulations made under section 140A, consisting of a failure to give a notice	Failure to give a notice required by regulations under s.140A (charge for occupation of the highway by builder's skip for unreasonable period).
An offence created by regulations made under section 140B, consisting of a failure to give a notice	Failure to give a notice required by regulations under s.140B (charge determined by reference to duration of occupation of the highway by builder's skip).
An offence under section 169(5)	Offences relating to the erection or retention of scaffolding etc. which obstructs the highway.
An offence under section 170(1)	Mixing or depositing mortar etc. on highway.
An offence under section 171(6)	Offences relating to the deposit of materials on highway or the making of temporary excavations in it.
An offence created by regulations made under section 171A, consisting of a failure to give a notice	Failure to give a notice required by regulations under s.171A (charge for occupation of the highway by scaffolding etc. for unreasonable period).
An offence created by regulations made under section 171B, consisting of a failure to give a notice	Failure to give a notice required by regulations under s.171B (charge determined by reference to duration of occupation of the highway by scaffolding etc.)”

Commencement

Sch. 5 para. 1: Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Sch. 5 para. 1: England, Wales

SCHEDULE 6

SCHEDULE 22B TO THE HIGHWAYS ACT 1980

Section 64

N Not Yet In Force

“SCHEDULE 22B

FIXED PENALTIES FOR CERTAIN OFFENCES UNDER PART 9

Section 314A

Power to give fixed penalty notices

1

(1) An authorised officer of a highway authority may, if he has reason to believe that a person is committing or has committed a fixed penalty offence, give him a fixed penalty notice in relation to that offence.

(2) In this Schedule “fixed penalty notice” means a notice offering a person the opportunity of discharging any liability to conviction for a fixed penalty offence by payment of a penalty.

2

A fixed penalty notice for an offence may not be given after such time relating to the offence as the Secretary of State may by regulations prescribe.

Contents of fixed penalty notice

3

(1) A fixed penalty notice must identify the offence to which it relates and give reasonable particulars of the circumstances alleged to constitute that offence.

(2) A fixed penalty notice must also state—

- (a) the amount of the penalty and the period within which it may be paid;
- (b) the discounted amount and the period within which it may be paid;
- (c) the person to whom and the address at which payment may be made;
- (d) the method or methods by which payment may be made;
- (e) the person to whom and the address at which any representations relating to the notice may be addressed;
- (f) the consequences of not making any payment within the period for payment.

(3) The person specified under sub-paragraph (2)(c) must be the highway authority or a person acting on their behalf.

The amount of the penalty and the period for payment

4

- (1) The penalty for a fixed penalty offence is (subject to paragraph 5) such amount, not exceeding 30 per cent. of the maximum fine for that offence, as may be prescribed.
- (2) The period for payment of the penalty is the period of 29 days beginning with the day on which the notice is given.
- (3) The highway authority may extend the period for paying the penalty in any particular case if they consider it appropriate to do so.

The discounted amount

5

- (1) A discounted amount is payable instead of the amount prescribed under paragraph 4(1) if payment is made before the end of the period of 15 days beginning with the day on which the notice is given.
- (2) The discounted amount for a fixed penalty offence is such amount, not exceeding 25 per cent. of the maximum fine for the offence, as may be prescribed.
- (3) If the last day of the period specified in sub-paragraph (1) does not fall on a working day, the period for payment of the discounted amount is extended until the end of the next working day.
- (4) In sub-paragraph (3) “working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday in the locality in which the highway in question is situated.

Effect of notice and payment of penalty

6

- (1) This paragraph applies where a person is given a fixed penalty notice in respect of a fixed penalty offence.
- (2) No proceedings for the offence may be commenced before the end of the period for payment of the penalty.
- (3) No such proceedings may be commenced or continued if payment of the penalty is made before the end of that period or is accepted by the highway authority after that time.
- (4) Payment of the discounted amount only counts for the purposes of sub-paragraph (3) if it is made before the end of the period for payment of the discounted amount.
- (5) In proceedings for the offence a certificate which—
 - (a) purports to be signed by or on behalf of the person having responsibility for the financial affairs of the highway authority; and

(b) states that payment of an amount specified in the certificate was or was not received by a date so specified, is evidence of the facts stated.

Power to withdraw notices

7

(1) If the highway authority consider that a fixed penalty notice which has been given ought not to have been given, they may give to the person on whom it was given a notice withdrawing the fixed penalty notice.

(2) Where a notice under sub-paragraph (1) is given—

- (a) the authority shall repay any amount which has been paid by way of penalty in pursuance of the fixed penalty notice; and
- (b) no proceedings may be commenced or continued against that person for the offence in question.

(3) The highway authority shall consider any representations made by or on behalf of the recipient of a fixed penalty notice and decide in all the circumstances whether to withdraw the notice.

General and supplementary

8

(1) In this Schedule “prescribed” means prescribed in regulations made by the Secretary of State.

(2) The Secretary of State may, with the consent of the Treasury, make regulations about—

- (a) the application by highway authorities of fixed penalties paid under this Schedule;
- (b) the keeping of accounts, and the preparation and publication of statements of account, relating to penalties paid under this Schedule.

(3) The Secretary of State may by regulations—

- (a) prescribe circumstances in which fixed penalty notices may not be given;
- (b) modify paragraph 4(2) or 5(1) so as to substitute a different period for the period for the time being specified there;
- (c) prescribe the method or methods by which penalties may be paid.

(4) Regulations under this Schedule may—

- (a) make different provision (including provision prescribing the amount of the penalty or the discounted amount) for different purposes or areas;
- (b) make consequential or transitional provision.

9

Section 323(1)(b) (reckoning of periods of 8 days or less) does not apply for the purposes of this Schedule.”


Commencement

Sch. 6 para. 1: Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Sch. 6 para. 1: England, Wales

SCHEDULE 7**ROAD TRAFFIC CONTRAVENTIONS SUBJECT TO CIVIL ENFORCEMENT****Section 73****PART 1****PARKING CONTRAVENTIONS**

 Law In Force

1 Parking contraventions


References in this Part of this Act to a parking contravention shall be construed as follows.

Commencement

Sch. 7(1) para. 1-: July 23, 2007 in relation to England; March 31, 2008 in relation to Wales (SI 2007/2053 art. 4(1), art. 2(2)(b))

Extent

Sch. 7(1) para. 1-: England, Wales

 Partially In Force

2 Contraventions relating to parking places in Greater London

(1) In Greater London there is a parking contravention in relation to a vehicle if the vehicle is stationary in a parking place and—

- (a) the vehicle has been left—
 - (i) otherwise than as authorised by or under any order relating to the parking place, or
 - (ii) beyond the period of parking that has been paid for,
- (b) no parking charge payable with respect to the vehicle has been paid, or

(c) there has been, with respect to the vehicle, a contravention of any provision made by or under any order relating to the parking place.

(2) In sub-paragraph (1) “parking place” means—


- (a) a parking place designated by an order made under section 6, 9 or 45 of the Road Traffic Regulation Act 1984 (c. 27), or
- (b) an off-street parking place provided under section 32(1)(a) of that Act.

Commencement

Sch. 7(1) para. 2-(2)(b): July 23, 2007 in relation to England; not yet in force otherwise (SI 2007/2053 art. 4(1), art. 2(2)(b))

Extent

Sch. 7(1) para. 2-(2)(b): England, Wales

 Partially In Force

3 Other parking contraventions in Greater London

(1) In Greater London there is a parking contravention in relation to a vehicle if it is stationary in circumstances in which any of the offences listed below is committed.

(2) The offences are—

- (a) an offence under section 15 of the Greater London Council (General Powers) Act 1974 (c. xxiv) (parking on footways, verges, etc.);
- (b) an offence under section 8, 11, 16(1) or 16C of the Road Traffic Regulation Act 1984 (contravention of certain traffic orders) of contravening—
 - (i) a prohibition or restriction on waiting of vehicles, or
 - (ii) provision relating to any of the matters mentioned in paragraph 7 or 8 of Schedule 1 to that Act (conditions for loading or unloading, or delivering or collecting);
- (c) an offence under section 25(5) of the Road Traffic Regulation Act 1984 of contravening regulation 18 or 20 of the Zebra, Pelican and Puffin Pedestrian Crossings Regulations and General Directions 1997 (S.I. 1997/2400) (prohibition on stopping vehicles on or near pedestrian crossings);
- (d) an offence under section 35A(1) of the Road Traffic Regulation Act 1984 (contravention of orders relating to parking places provided under section 32 or 33 of that Act);
- (e) an offence under section 61(5) of the Road Traffic Regulation Act 1984 (parking in loading areas);
- (f) an offence under section 19 of the Road Traffic Act 1988 (c. 52) (parking of HGVs on verges, central reservations or footways);
- (g) an offence under section 21 of the Road Traffic Act 1988 (offences relating to cycle tracks) of parking a vehicle wholly or partly on a cycle track;
- (h) an offence under section 36(1) of the Road Traffic Act 1988 (failure to comply with traffic sign) of failing to comply with a sign of a type referred to in—
 - (i) regulation 10(1)(b) of the Traffic Signs Regulations and General Directions 2002 (S.I. 2002/3113) (zig-zag lines relating to certain crossings), or
 - (ii) regulation 29(1) of those regulations (bus stop or bus stand markings).

(3) This paragraph does not apply to a contravention within paragraph 2 above (contraventions relating to parking places).

Commencement

Sch. 7(1) para. 3-(3): July 23, 2007 in relation to England; not yet in force otherwise (SI 2007/2053 art. 4(1), art. 2(2)(b))

Extent

Sch. 7(1) para. 3-(3): England, Wales

✔ Law In Force

4 Parking contraventions outside Greater London

(1) Outside Greater London there is a parking contravention in relation to a vehicle if it is stationary in circumstances in which any of the offences listed below is committed.

(2) The offences are—

- (a) an offence under section 64(3) of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57) of causing a vehicle to stop on part of a road appointed, or deemed to have been appointed, as a hackney carriage stand;
- (b) an offence under section 5, 11, 16(1) or 16C of the Road Traffic Regulation Act 1984 (c. 27) (contravention of certain traffic orders) of contravening a prohibition or restriction on waiting, or loading or unloading, of vehicles;
- (c) an offence under section 25(5) of the Road Traffic Regulation Act 1984 of contravening regulation 18 or 20 of the Zebra, Pelican and Puffin Pedestrian Crossings Regulations and General Directions 1997 (S.I. 1997/2400) (prohibition on stopping vehicles on or near pedestrian crossings);
- (d) an offence under section 35A(1), 47(1) or 53(5) or (6) of the Road Traffic Regulation Act 1984 (offences in connection with parking places);
- (e) an offence under section 61(5) of the Road Traffic Regulation Act 1984 (parking in loading areas);
- [(ea) an offence under section 30(1) of the Exeter City Council Act 1987 (c. xi) (prohibition of parking vehicles on verges, central reservations and footways);²]¹
- (f) an offence under section 6(6) of the Essex Act 1987 (c. xx) of leaving a vehicle on any land in contravention of a prohibition under that section (prohibitions relating to verges and certain other land adjoining or accessible from highway);
- (g) an offence under section 19 of the Road Traffic Act 1988 (c. 52) (parking of HGVs on verges, central reservations or footways);
- (h) an offence under section 21 of the Road Traffic Act 1988 (offences relating to cycle tracks) of parking a vehicle wholly or partly on a cycle track;
- (i) an offence under section 36(1) of the Road Traffic Act 1988 (failure to comply with traffic sign) of failing to comply with a sign of a type referred to in—
 - (i) regulation 10(1)(b) of the Traffic Signs Regulations and General Directions 2002 (S.I. 2002/3113) (zig-zag lines relating to certain crossings), or
 - (ii) regulation 29(1) of those regulations (bus stop or bus stand markings).

Notes

- ¹ Added by Traffic Management Act 2004 (Amendment of Schedule 7) (City of Exeter) Regulations 2012/12 reg.2 (January 30, 2012)
- ² Section 30 applies from the appointed day, which was 11th June 1990 by virtue of a resolution of Exeter City Council dated 4th May 1990 and made pursuant to section 3 of the Exeter City Council Act 1987.

Commencement

Sch. 7(1) para. 4-(2)(i)(ii): July 23, 2007 in relation to England; March 31, 2008 in relation to Wales (SI 2007/2053 art. 4(1), art. 2(2)(b))

Extent

Sch. 7(1) para. 4-(2)(i)(ii): England, Wales

 Partially In Force

5 Power to add further offences

- (1) The appropriate national authority may by regulations amend paragraph 3 or 4 so as to add further offences (but only in so far as they relate to stationary vehicles).
- (2) Before making regulations amending paragraph 3 the Secretary of State shall consult—
- (a) the Commissioner of Police of the Metropolis and the Commissioner of Police for the City of London, and
 - (b) such associations of London authorities (if any) as he thinks appropriate.
- (3) Before making regulations amending paragraph 4 the appropriate national authority shall consult—
- (a) such representatives of chief officers of police, and
 - (b) such associations of local authorities (if any),
- as the authority considers appropriate.

Commencement

Sch. 7(1) para. 5(1)-(1), (3)-(3)(b): July 23, 2007 in relation to England; March 31, 2008 in relation to Wales (SI 2007/2053 art. 2(2)(b))

Sch. 7(1) para. 5(2)-(2)(b): July 23, 2007 in relation to England; not yet in force otherwise (SI 2007/2053 art. 2(2)(b))

Extent

Sch. 7(1) para. 5(1)-(3)(b): England, Wales

PART 2**BUS LANE CONTRAVENTIONS**

✔ Law In Force

6 Bus lane contraventions

- (1) A bus lane contravention is a contravention of any provision of a traffic order relating to the use of an area of road that is or forms part of a bus lane.
- (2) An area of road is or forms part of a bus lane if the order provides that it may be used—
- (a) only by buses (or a particular description of bus), or
 - (b) only by buses (or a particular description of bus) and some other class or classes of vehicular traffic.
- (3) In this paragraph—
- “bus” includes a tramcar (within the meaning of section 141A of the Road Traffic Regulation Act 1984 (c. 27)) and a trolley vehicle (within the meaning of that section); and
 - “traffic order” means an order under section 1, 6, 9 or 14 of that Act.

Commencement

Sch. 7(2) para. 6-(3) definition of "traffic order": July 23, 2007 in relation to England; March 31, 2008 in relation to Wales (SI 2007/2053 art. 4(1), art. 2(2)(b))

Extent

Sch. 7(2) para. 6-(3) definition of "traffic order": England, Wales

PART 3

LONDON LORRY BAN CONTRAVENTIONS

Ⓜ Partially In Force

7 London lorry ban contraventions

A London lorry ban contravention is a contravention of the Greater London (Restriction of Goods Vehicles) Traffic Order 1985 made by the Greater London Council under section 6 of the Road Traffic Regulation Act 1984, or any order replacing that order, as amended from time to time.

Commencement


Sch. 7(3) para. 7: July 23, 2007 in relation to England; not yet in force otherwise

Extent

Sch. 7(3) para. 7: England, Wales

PART 4

MOVING TRAFFIC CONTRAVENTIONS

 Partially In Force

8 Moving traffic contraventions

(1) A moving traffic contravention is—

- (a) an offence under section 36 of the Road Traffic Act 1988 (c. 52) of failing to comply with the indication given by a traffic sign that is subject to civil enforcement (see paragraph 9), or
- (b) an offence of failing to comply with a traffic order in so far as it makes provision for a requirement, restriction or prohibition that is conveyed by a traffic sign subject to civil enforcement.

(2) In sub-paragraph (1)(b) “traffic order” means an order under section 1, 6, 9, 14 or 16A of the Road Traffic Regulation Act 1984 (c. 27).

(3) If conduct is both a moving traffic contravention and a London lorry ban contravention (see Part 3 above), a penalty charge may only be imposed on the latter basis.

(4) If in any other case the same conduct is a moving traffic contravention under sub-paragraph (1)(a) and (b), a penalty charge may be imposed on either basis but not both.


Commencement

Sch. 7(4) para. 8(1)-(2), (4)-(4): July 23, 2007 in relation to England; March 31, 2008 in relation to Wales (SI 2007/2053 art. 2(2)(b))

Sch. 7(4) para. 8(3)-(3): July 23, 2007 in relation to England; not yet in force otherwise (SI 2007/2053 art. 2(2)(b))

Extent

Sch. 7(4) para. 8(1)-(4): England, Wales

 Law In Force

9 Traffic signs subject to civil enforcement

(1) The table below specifies the traffic signs that are subject to civil enforcement.

(2) In the table—

- (a) column 1 sets out the description, corresponding to the description in the Traffic Signs Regulations and General Directions 2002 (S.I. 2002/3113), of the requirement, restriction or prohibition conveyed by the sign, and
- (b) column 2 sets out the number given to the diagram illustrating the sign in that instrument.

(3) References in the table to any sign include any permitted variant of that sign.

(4) The table is as follows:

Description	Diagram number
Vehicular traffic must proceed in the direction indicated by the arrow	606
Vehicular traffic must turn ahead in the direction indicated by the arrow	609
Vehicular traffic must comply with the requirements in regulation 15	610
No right turn for vehicular traffic	612
No left turn for vehicular traffic	613
No U-turns for vehicular traffic	614
Priority must be given to vehicles from the opposite direction	615, 615.1
No entry for vehicular traffic (when the restriction or prohibition is one that may be indicated by another traffic sign subject to civil enforcement)	616
All vehicles prohibited except non-mechanically propelled vehicles being pushed by pedestrians	617
Entry to pedestrian zone restricted (alternative types)	618.2
Entry to and waiting in pedestrian zone restricted (alternative types)	618.3
Entry to and waiting in pedestrian zone restricted (variable message sign)	618.3A
Motor vehicles prohibited	619
Motor vehicles except solo motor cycles prohibited	619.1
Solo motor cycles prohibited	619.2
Goods vehicles exceeding the maximum gross weight indicated on the goods vehicle symbol prohibited	622.1A
One way traffic	652
Buses prohibited	952
Route for use by buses and pedal cycles only	953
Route for use by tramcars only	953.1
Route for use by pedal cycles only	955
Route for use by pedal cycles and pedestrians only	956
Route comprising two ways, for use by pedal cycles only and by pedestrians only	957
[With flow bus lane which pedal cycles and taxis may also use ahead	958
With flow bus lane which pedal cycles may also use	959] ¹
With-flow cycle lane	959.1
[Contra flow bus lane	960] ¹
Contra-flow cycle lane	960.1
Box junction markings	1043, 1044

Notes

¹ Entries inserted by Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013/362 Pt 7 reg.28 (March 25, 2013)

Commencement

Sch. 7(4) para. 9-(4): July 23, 2007 in relation to England; March 31, 2008 in relation to Wales (SI 2007/2053 art. 4(1), art. 2(2)(b))

Extent

Sch. 7(4) para. 9-(4): England, Wales

Law In Force

10 Power to amend table

(1) The appropriate national authority may by regulations amend the table in paragraph 9(4) so as to add further traffic signs.

(2) A traffic sign may only be added to the table if it is of a type–

- (a) regulating the movement of vehicles (and not stationary vehicles),
- (b) to which section 36 of the Road Traffic Act 1988 (c. 52) applies (offence of failure to comply with traffic sign), and
- (c) failure to comply with which is not an offence involving obligatory endorsement.

In paragraph (c) “offence involving obligatory endorsement” has the meaning given by section 96 of the Road Traffic Offenders Act 1988 (c. 53).

(3) Before making regulations under this paragraph the appropriate national authority shall consult–

- (a) such representatives of chief officers of police, and
- (b) such associations of local authorities (if any),

as the authority considers appropriate.


Commencement

Sch. 7(4) para. 10-(3)(b): July 23, 2007 in relation to England; March 31, 2008 in relation to Wales (SI 2007/2053 art. 4(1), art. 2(2)(b))

Extent

Sch. 7(4) para. 10-(3)(b): England, Wales

SCHEDULE 8**CIVIL ENFORCEMENT AREAS AND ENFORCEMENT AUTHORITIES****Section 74****PART 1****IN GREATER LONDON**

 Partially In Force

1 Civil enforcement of parking contraventions relating to parking places

(1) The whole of Greater London is a civil enforcement area for parking contraventions within paragraph 2 of Schedule 7 (contraventions relating to parking places).


(2) References in this Part of this Act to the enforcement authority in relation to such contraventions are to the authority by whom the parking place in question was designated or provided.

Commencement

Sch. 8(1) para. 1-(2): March 31, 2008 in relation to England; not yet in force otherwise (SI 2007/2053 art. 3(2)(f), art. 3(2)(a))

Extent

Sch. 8(1) para. 1-(2): England, Wales

 Partially In Force

2 Civil enforcement of other parking contraventions

(1) The Secretary of State may, on an application by a London authority, make an order designating the whole or part of the authority's area as a civil enforcement area for parking contraventions within paragraph 3 of Schedule 7 (contraventions other than those relating to parking places).

(2) An application may be made—

- (a) by Transport for London, to the extent that the civil enforcement area is to consist of GLA roads;
- (b) by a London local authority, to the extent that the civil enforcement area is to consist of roads other than GLA roads.

(3) Before making an order under this paragraph the Secretary of State shall consult the Commissioner of Police of the Metropolis or the Commissioner of Police for the City of London or, if appropriate, both of them.

(4) An order in force immediately before the commencement of this Part of this Act designating an area in Greater London as a special parking area under section 76 of the Road Traffic Act 1991 (c. 40) has effect on and after the commencement of this Part of this Act as if it were an order under this paragraph designating that area as a civil enforcement area for such parking contraventions as are mentioned in sub-paragraph (1).

(5) References in this Part of this Act to the enforcement authority in relation to such contraventions in Greater London are—


- (a) as respects parking, or any matter connected with or relating to parking, on or adjacent to a GLA road, to Transport for London;
- (b) as respects parking, or any matter connected with or relating to parking, on or adjacent to a road other than a GLA road, to the London local authority in whose area the road is situated.

Commencement

Sch. 8(1) para. 2-(5)(b): March 31, 2008 in relation to England; not yet in force otherwise (SI 2007/2053 art. 3(2)(f), art. 3(2)(a))

Extent

Sch. 8(1) para. 2-(5)(b): England, Wales

 Partially In Force

3 Variation of civil enforcement area by Mayor of London

(1) The Mayor of London may by order under this paragraph amend an order for the time being in force under paragraph 2 so as to vary the area that for the time being constitutes the civil enforcement area.

(2) No such order may be made without the consent of the relevant London authority for every road that the order has the effect of bringing within, or removing from, the civil enforcement area.

(3) The relevant London authority is—

- (a) as regards GLA roads, Transport for London;
- (b) as regards roads other than GLA roads, the London local authority in whose area the road is situated.

(4) An order under this paragraph must not be such as to bring within a civil enforcement area an area as to which the Secretary of State has specified by order that it is expedient on grounds of national security that no part of it should be included in a civil enforcement area.

(5) An order in force immediately before the commencement of this Part of this Act under section 76A(1) or (3)(a) of the Road Traffic Act 1991 (c. 40) has effect on and after the commencement of this Part of this Act as if made under the corresponding provision of this paragraph.

Commencement

Sch. 8(1) para. 3-(5): March 31, 2008 in relation to England; not yet in force otherwise (SI 2007/2053 art. 3(2)(f), art. 3(2)(a))

Extent

Sch. 8(1) para. 3-(5): England, Wales

 Not Yet In Force

4 Civil enforcement of bus lane contraventions

(1) The whole of Greater London is a civil enforcement area for bus lane contraventions.

(2) References in this Part of this Act to the enforcement authority in relation to bus lane contraventions in Greater London are—

- (a) in relation to contraventions on GLA roads, to Transport for London or the relevant London local authority acting with the written consent of Transport for London;
- (b) in relation to contraventions on roads other than GLA roads, to the relevant London local authority or Transport for London acting with the written consent of the relevant London local authority.

(3) Consent under sub-paragraph (2)(a) or (b) may be given with respect to the whole or part of the area of the relevant London local authority.

(4) In this paragraph “the relevant London local authority” means the London local authority in whose area the contravention is committed.

(5) Any consent in force immediately before the commencement of this Part of this Act for the purposes of the provisions of regulations under section 144 of the Transport Act 2000 (c. 38) corresponding to the provisions of this paragraph has effect on and after the commencement of this Part of this Act as if given under this paragraph.

Commencement

Sch. 8(1) para. 4(1)-(5): Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Sch. 8(1) para. 4(1)-(5): England, Wales

N Not Yet In Force

5 Civil enforcement of London lorry ban contraventions

(1) The whole of Greater London is a civil enforcement area for London lorry ban contraventions.

(2) References in this Part of this Act to the enforcement authority in relation to such contraventions are—

- (a) in relation to contraventions on GLA roads, to Transport for London;
- (b) in relation to contraventions on roads other than GLA roads, to the London local authority in whose area the contravention is committed.

Commencement

Sch. 8(1) para. 5(1)-(2)(b): Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Sch. 8(1) para. 5(1)-(2)(b): England, Wales

N Not Yet In Force

6 Civil enforcement of moving traffic contraventions: London local authorities

(1) A London local authority may by resolution declare the whole or part of its area to be a civil enforcement area for moving traffic contraventions.


- (2) The resolution must specify the date on which it is to have effect, which must be not less than three months after publication of the notice required by sub-paragraph (3).
- (3) The authority shall cause notice to be published in a local newspaper circulating in their area—
- (a) of the passing of the resolution, and
 - (b) of the general effect of the provisions of this Act coming into operation as a result of it.
- (4) A photocopy or other reproduction certified by the officer appointed for that purpose by the authority to be a reproduction of a page or part of a page of any such newspaper bearing the date of its publication and containing any such notice shall be evidence of the publication of the notice and of the date of publication.
- (5) A civil enforcement area declared by resolution under this paragraph does not extend to any GLA road.
- (6) In relation to moving traffic contraventions in a civil enforcement area created by resolution under this paragraph, references in this Part of this Act to the enforcement authority are to the London local authority by whom the resolution was passed or Transport for London acting with the written consent of that authority.
Consent may be given with respect to the whole or part of the area of the London local authority.

Commencement

Sch. 8(1) para. 6(1)-(6): Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Sch. 8(1) para. 6(1)-(6): England, Wales

 Not Yet In Force

7 Civil enforcement of moving traffic contraventions: Transport for London

- (1) Transport for London may declare the whole or part of one or more GLA roads to be a civil enforcement area for moving traffic contraventions.
- (2) The declaration must specify the date on which it is to have effect, which must be not less than three months after publication of the notice required by sub-paragraph (3).
- (3) Transport for London shall cause notice to be published in a local newspaper circulating in the area of each London local authority in which a road, or part of a road, to which the declaration relates is situated—
- (a) of the making of the declaration, and
 - (b) of the general effect of the provisions of this Act coming into operation as a result of it.
- (4) A photocopy or other reproduction certified by the officer appointed for that purpose by Transport for London to be a reproduction of a page or part of a page of any such newspaper bearing the date of its publication and containing any such notice shall be evidence of the publication of the notice and of the date of publication.

(5) In relation to moving traffic contraventions in a civil enforcement area declared under this paragraph, references in this Part of this Act to the enforcement authority are to Transport for London or the London local authority in whose area the contravention is committed acting with the written consent of Transport for London.

Consent may be given with respect to the whole or part of the area of a London local authority.

Commencement

Sch. 8(1) para. 7(1)-(5): Date to be appointed (not yet in force) (2004 c. 18 Pt 7 s. 99)

Extent

Sch. 8(1) para. 7(1)-(5): England, Wales

PART 2**OUTSIDE GREATER LONDON**

 Partially In Force

8 Designation of civil enforcement areas for parking contraventions

(1) The appropriate national authority may, on an application under this paragraph, make an order designating the whole or part of a local authority's area as a civil enforcement area for parking contraventions.

(2) An application under this paragraph may be made—

- (a) with respect to the whole or part of their area, by a county council in England;
- (b) with respect to the whole or part of their area, by a county council or county borough council in Wales;
- (c) with respect to the whole of their area, by a metropolitan district council;
- (d) with respect to the whole of their areas, by two or more metropolitan district councils acting jointly;
- (e) with respect to the whole or part of the Isles of Scilly, by the Council of the Isles of Scilly.

(3) Before making an order under this paragraph the appropriate national authority shall consult the appropriate chief officer of police.

(4) An order in force immediately before the commencement of this Part of this Act designating an area outside Greater London as a permitted parking area and special parking area under paragraphs 1(1) and 2(1) of Schedule 3 to the Road Traffic Act 1991 (c. 40) has effect on and after the commencement of this Part of this Act as an order under this paragraph designating the area as a civil enforcement area for parking contraventions.

(5) References in this Part of this Act to the enforcement authority in relation to parking contraventions in a civil enforcement area outside Greater London, are—

- (a) in relation to contraventions relating to a parking place—

- (i) provided or authorised under section 32(1)(a) or (b) of the Road Traffic Regulation Act 1984 (c. 27), or
 - (ii) designated by order under section 45 of that Act,
- to the authority by whom the parking place was provided, authorised or designated;
- (b) in relation to other parking contraventions, to the local authority in whose area the contravention is committed.

Commencement


Sch. 8(2) para. 8(1)-(1), (2)(b)-(2)(b), (3)-(5)(b): March 31, 2008 in relation to England; March 31, 2008 in relation to Wales (SI 2007/2053 art. 3(2)(a))

Sch. 8(2) para. 8(2): March 31, 2008

Sch. 8(2) para. 8(2)(a)-(2)(a), (2)(c)-(2)(e): March 31, 2008 in relation to England; not yet in force otherwise (SI 2007/2053 art. 3(2)(a))

Extent

Sch. 8(2) para. 8(1)-(5)(b): England, Wales

 Partially In Force

9 Designation of civil enforcement areas for bus lane contraventions

(1) The appropriate national authority may make an order designating the whole or part of a local authority's area as a civil enforcement area for bus lane contraventions.

(2) An area may only be so designated if it is within, or is co-extensive with, an area already designated as a civil enforcement area for parking contraventions.

(3) An order in force immediately before the commencement of this Part of this Act approving a local authority for the purposes of section 144 of the Transport Act 2000 (c. 38) (civil penalties for bus lane contraventions) has effect on and after the commencement of this Part of this Act as an order under this paragraph designating as a civil enforcement area for bus lane contraventions so much of that authority's area as is a civil enforcement area for parking contraventions.

[(3A) A notice given (and not withdrawn) before the commencement of this Part of this Act approving a local authority in England for the purposes of section 144 of the Transport Act 2000 (civil penalties for bus lane contraventions) has effect on and after the commencement of this Part of this Act (in relation to England) as an order under this paragraph designating as a civil enforcement area for bus lane contraventions so much of that authority's area as is a civil enforcement area for parking contraventions.]¹

(4) References in this Part of this Act to the enforcement authority in relation to bus lane contraventions outside Greater London are to the local authority in whose area the contravention is committed.

Notes


¹ Added by Deregulation Act 2015 c. 20 Sch.11(2) para.19 (May 26, 2015)

Commencement

Sch. 8(2) para. 9(1)-(4): March 31, 2008 in relation to Wales; not yet in force otherwise (SI 2007/3174 Sch. 1 para. 1)

Extent

Sch. 8(2) para. 9(1)-(4): England, Wales

 Partially In Force

10 Designation of civil enforcement areas for moving traffic contraventions

(1) The appropriate national authority may, on an application under this paragraph, make an order designating the whole or part of a local authority's area as a civil enforcement area for moving traffic contraventions.

(2) An area may only be so designated if it is within, or is co-extensive with, an area already designated as a civil enforcement area for parking contraventions.

(3) An application under this paragraph may be made—

- (a) with respect to the whole or part of their area, by a county council in England;
- (b) with respect to the whole or part of their area, by a county council or county borough council in Wales;
- (c) with respect to the whole or part of their area, by a metropolitan district council;
- (d) with respect to the whole of their areas, by two or more metropolitan district councils acting jointly;
- (e) with respect to the whole or part of the Isles of Scilly, by the Council of the Isles of Scilly.

(4) Before making an order under this paragraph the appropriate national authority shall consult the appropriate chief officer of police.

(5) In relation to a civil enforcement area designated by order under this paragraph, references in this Part of this Act to the enforcement authority are to the authority on whose application the order was made or, if the application was a joint application, any of the authorities on whose application the order was made.

Commencement

Sch. 8(2) para. 10(1)-(2), (3)(b), (4)-(5): March 31, 2008 in relation to Wales; not yet in force otherwise (SI 2007/3174 Sch. 1 para. 1)

Sch. 8(2) para. 10(3): March 31, 2008

Sch. 8(2) para. 10(3)(a), (3)(c)-(3)(e): Date to be appointed (not yet in force)

Extent

Sch. 8(2) para. 10(1)-(5): England, Wales

SCHEDULE 9

CIVIL ENFORCEMENT: SETTING THE LEVEL OF CHARGES

Section 77

PART 1

CHARGES TO WHICH THIS SCHEDULE APPLIES

Law In Force

1 Charges to which this Schedule applies

- (1) This Schedule provides for the setting of the levels of—
- (a) penalty charges, including any discounts or surcharges,
 - (b) charges made by authorities under section 102 of the Road Traffic Regulation Act 1984 (c. 27) for the removal, storage and disposal of vehicles found in areas that are civil enforcement areas for parking contraventions, and
 - (c) charges for the release of vehicles from an immobilisation device under regulations under section 79 above.
- (2) References in this Schedule to “charges” are to those charges.

Commencement

Sch. 9(1) para. 1-(2): July 23, 2007 in relation to England; November 26, 2007 in relation to Wales (SI 2007/2053 art. 4(1), art. 2(2)(d))

Extent

Sch. 9(1) para. 1-(2): England, Wales

PART 2

CHARGES APPLICABLE IN GREATER LONDON

Partially In Force

2 Charges to be set by Transport for London or London local authorities

- (1) It is the duty—
- (a) of Transport for London, so far as relating to contraventions on or adjacent to GLA roads, and

(b) of the London local authorities, so far as relating to—
(i) parking places provided or authorised by such authorities, or
(ii) contraventions on or adjacent to roads other than GLA roads,
to set the levels of charges applicable in Greater London.

(2) Different levels of charges may be set for different areas in London and for different cases or classes of case.

(3) Before setting the level of any charges Transport for London must consult the London local authorities.

Commencement

Sch. 9(2) para. 2-(3): July 23, 2007 in relation to England; not yet in force otherwise (SI 2007/2053 art. 4(1), art. 2(2)(d))

Extent

Sch. 9(2) para. 2-(3): England, Wales

 Partially In Force

3 Supervisory role of Mayor of London

(1) Transport for London and the London local authorities must submit to the Mayor of London for his approval the levels of charges that they propose to set.

(2) If—

- (a) Transport for London or the London local authorities fail to discharge their duty under paragraph 2, or
- (b) the Mayor of London does not approve the levels of charges proposed by the London local authorities,

the levels of charges shall be set by order made by the Mayor of London.

Commencement

Sch. 9(2) para. 3-(2)(b): July 23, 2007 in relation to England; not yet in force otherwise (SI 2007/2053 art. 4(1), art. 2(2)(d))

Extent

Sch. 9(2) para. 3-(2)(b): England, Wales

 Partially In Force

4 Reserve powers of Secretary of State

(1) The following provisions apply where the Mayor of London—

- (a) approves any levels of charges on a submission under paragraph 3(1), or
- (b) sets any such levels under paragraph 3(2).

(2) The Mayor must notify the Secretary of State of the levels of charges so approved or set.

- (3) The levels of charges shall not come into force until after the expiration of—
- (a) the period of one month beginning with the date on which the notification is given, or
 - (b) such shorter period as the Secretary of State may allow.
- (4) The Secretary of State may before the end of that period give notice to the Mayor of London that he objects to the levels of charges on the grounds that some or all of them are excessive. If he does so those levels of charges shall not come into force unless and until the objection has been withdrawn.
- (5) If at any time before the levels of charges have come into force, the Secretary of State considers that some or all of them are excessive, he may make regulations setting the levels of charges. Those levels must be no higher than those notified under sub-paragraph (2).
- (6) If the Secretary of State makes regulations under sub-paragraph (5) no further submission to the Mayor of London under paragraph 3(1) may be made until after the end of the period of twelve months beginning with the day on which the regulations are made.

Commencement

Sch. 9(2) para. 4-(6): July 23, 2007 in relation to England; not yet in force otherwise (SI 2007/2053 art. 4(1), art. 2(2)(d))

Extent

Sch. 9(2) para. 4-(6): England, Wales

 Partially In Force

5 Publication of levels of charges


- (1) Transport for London and the London local authorities shall publish, in such manner as the Mayor of London may determine, the levels of charges set in accordance with this Part of this Schedule.
- (2) The duty imposed by sub-paragraph (1) applies—
- (a) to Transport for London so far as the charges relate to contraventions on or adjacent to GLA roads, and
 - (b) to the London local authorities so far as they relate to—
 - (i) parking places provided or authorised by such authorities, or
 - (ii) contraventions on or adjacent to roads other than GLA roads.

Commencement

Sch. 9(2) para. 5-(2)(b)(ii): July 23, 2007 in relation to England; not yet in force otherwise (SI 2007/2053 art. 4(1), art. 2(2)(d))

Extent

Sch. 9(2) para. 5-(2)(b)(ii): England, Wales

 Partially In Force

6 Discharge of functions by London local authorities

(1) The Secretary of State may make provision by regulations as to the discharge by London local authorities of the functions conferred on them by this Part of this Schedule.

(2) The regulations may provide for the functions to be discharged by means of arrangements under section 101 of the Local Government Act 1972 (c. 70) (arrangements for discharge of functions by local authorities) or in such other way as the regulations may provide.

(3) The regulations may make provision for continuing in force for the purposes of this Part of this Schedule any arrangements in force immediately before the commencement of this Part for the discharge of functions corresponding to the functions of London local authorities under this Part of this Schedule.

Commencement


Sch. 9(2) para. 6-(3): July 23, 2007 in relation to England; not yet in force otherwise (SI 2007/2053 art. 4(1), art. 2(2)(d))

Extent

Sch. 9(2) para. 6-(3): England, Wales

PART 3

CHARGES APPLICABLE OUTSIDE GREATER LONDON

 Law In Force

7 Charges to be set by enforcement authority

(1) Outside Greater London it is the duty of each enforcement authority to set the level of charges applicable in the case of contraventions for which they are the enforcement authority.

(2) Different levels of charges may be set for different parts of a civil enforcement area and for different cases or classes of case.

Commencement

Sch. 9(3) para. 7-(2): July 23, 2007 in relation to England; March 31, 2008 in relation to Wales (SI 2007/2053 art. 4(1), art. 2(2)(d))

Extent

Sch. 9(3) para. 7-(2): England, Wales

✔ Law In Force

8 Guidelines given by appropriate national authority

(1) The levels of charges set by enforcement authorities under this Part of this Schedule must (subject to sub-paragraph (3)) accord with guidelines appended to an order made by the appropriate national authority.

(2) Different guidelines may be given for different cases or classes of case.

(3) An enforcement authority may, with the permission of the appropriate national authority, depart from any such guidelines.

Commencement

Sch. 9(3) para. 8-(3): July 23, 2007 in relation to England; March 31, 2008 in relation to Wales (SI 2007/2053 art. 4(1), art. 2(2)(d))

Extent

Sch. 9(3) para. 8-(3): England, Wales

✔ Law In Force

9 Publication of levels of charges

An enforcement authority for an area outside Greater London shall publish, in such manner as the appropriate national authority may determine, the levels of charges set under this Part of this Schedule.

Commencement

Sch. 9(3) para. 9-: July 23, 2007 in relation to England; March 31, 2008 in relation to Wales (SI 2007/2053 art. 4(1), art. 2(2)(d))

Extent

Sch. 9(3) para. 9-: England, Wales

SCHEDULE 10

CIVIL ENFORCEMENT: SPECIAL ENFORCEMENT AREAS

Section 84

Ⓟ Partially In Force

1 Designation of special enforcement areas in Greater London

(1) The Secretary of State may, on an application by a London authority, make an order designating the whole or part of that authority's area as a special enforcement area.

(2) An area may only be so designated if it is within, or is co-extensive with, an area that is a civil enforcement area for parking contraventions within paragraph 3 of Schedule 7 (parking contraventions other than those relating to parking places).

(3) An application under this paragraph may be made—

- (a) by Transport for London, to the extent that the special enforcement area is to consist of GLA roads;
- (b) by a London local authority, to the extent that the special enforcement area is to consist of roads other than GLA roads.

(4) Before making an order under this paragraph the Secretary of State shall consult the Commissioner of Police of the Metropolis or the Commissioner of Police for the City of London or, if appropriate, both of them.


(5) An order in force immediately before the commencement of this Part of this Act under section 76 of the Road Traffic Act 1991 (c. 40) designating an area in Greater London as a special parking area has effect on and after the commencement of this Part of this Act as if it were an order under this paragraph designating the area as a special enforcement area.

Commencement

Sch. 10 para. 1-(5): March 31, 2008 in relation to England, not yet in force otherwise (SI 2007/2053 art. 4(1), art. 3(2)(c))

Extent

Sch. 10 para. 1-(5): England, Wales

 Partially In Force

2 Variation of special enforcement area by Mayor of London

(1) The Mayor of London may by order under this paragraph amend an order for the time being in force under paragraph 1 so as to vary the area that for the time being constitutes the special enforcement area.

(2) No such order may be made without the consent of the relevant London authority for every road that the order has the effect of bringing within, or removing from, the special enforcement area.

(3) The relevant London authority is—

- (a) as regards GLA roads, Transport for London;
- (b) as regards roads other than GLA roads, the London local authority in whose area the road is situated.

(4) An order under this paragraph must not be such as to bring within a special enforcement area an area as to which the Secretary of State has specified by order that it is expedient on grounds of national security that no part of it should be included in a special enforcement area.


(5) An order in force immediately before the commencement of this Part of this Act under section 76A(1) or (3)(a) of the Road Traffic Act 1991 (c. 40) has effect on and after the commencement of this Part of this Act as if it made corresponding provision under this paragraph.

Commencement

Sch. 10 para. 2-(5): March 31, 2008 in relation to England, not yet in force otherwise (SI 2007/2053 art. 4(1), art. 3(2)(c))

Extent

Sch. 10 para. 2-(5): England, Wales

 Partially In Force

3 Designation of special enforcement areas outside Greater London

(1) The appropriate national authority may, on an application under this paragraph, make an order designating the whole or part of a local authority's area as a special enforcement area.

(2) An area may only be so designated if it is within, or is co-extensive with, an area that is a civil enforcement area for parking contraventions.

(3) An application under this paragraph may be made—

- (a) with respect to the whole or part of their area, by a county council in England;
- (b) with respect to the whole or part of their area, by a county council or county borough council in Wales;
- (c) with respect to the whole of their area, by a metropolitan district council;
- (d) with respect to the whole of their areas, by two or more metropolitan district councils acting jointly;
- (e) with respect to the whole or part of the Isles of Scilly, by the Council of the Isles of Scilly.

(4) Before making an order under this paragraph the appropriate national authority shall consult the appropriate chief officer of police.

(5) An order in force immediately before the commencement of this Part of this Act under paragraph 2(1) of Schedule 3 to the Road Traffic Act 1991 designating an area outside Greater London as a special parking area has effect on and after the commencement of this Part of this Act as if it were an order under this paragraph designating the area as a special enforcement area.

Commencement

Sch. 10 para. 3(1)-(2), (3)(b)-(3)(b), (4)-(5): March 31, 2008 in relation to England; March 31, 2008 in relation to Wales (SI 2007/2053 art. 3(2)(c))

Sch. 10 para. 3(3): March 31, 2008

Sch. 10 para. 3(3)(a)-(3)(a), (3)(c)-(3)(e): March 31, 2008 in relation to England; not yet in force otherwise (SI 2007/2053 art. 3(2)(c))

Extent

Sch. 10 para. 3(1)-(5): England, Wales

SCHEDULE 11**CIVIL ENFORCEMENT: CONSEQUENTIAL AMENDMENTS****Section 91***Road Traffic Regulation Act 1984*

Law In Force

1

(1) Section 46 of the Road Traffic Regulation Act 1984 (c. 27) (charges at, and regulation of, designated parking places) is amended as follows.

(2) In subsection (1) after “outside Greater London” insert “, and not in a civil enforcement area for parking contraventions,”.

(3) In subsection (1A) after “in Greater London” insert “, or outside Greater London in a civil enforcement area for parking contraventions,”.

(4) After subsection (5) add–

“(6) In this section “civil enforcement area for parking contraventions” has the same meaning as in Part 6 of the Traffic Management Act 2004.”.

Commencement

Sch. 11 para. 1-(4): March 31, 2008 in relation to England for provisions specified in SI 2007/2053 art.3(2)(g); March 31, 2008 in relation to Wales (SI 2007/2053 art. 3(2)(d), art. 2(2)(g))

Extent

Sch. 11 para. 1-(4): England, Wales

Law In Force

2

In section 63A of the Road Traffic Regulation Act 1984 (parking attendants), for subsection (4) (requirement to wear uniform) substitute–

“(4) Parking attendants in an area that is a civil enforcement area for parking contraventions–
(a) when exercising prescribed functions must wear such uniform as may be determined by the enforcement authority in accordance with guidance issued by the appropriate national authority, and
(b) must not exercise any of those functions when not in uniform.

Expressions used in this subsection that are defined for the purposes of Part 6 of the Traffic Management Act 2004 have the same meaning as in that Part.”.

Commencement

Sch. 11 para. 2-: March 31, 2008 in relation to England for provisions specified in SI 2007/2053 art.3(2)(g); March 31, 2008 in relation to Wales (SI 2007/2053 art. 3(2)(d), art. 2(2)(g))

Extent

Sch. 11 para. 2-: England, Wales

Law In Force

3

(1) In section 101 of the Road Traffic Regulation Act 1984 (disposal of vehicles removed under that Act)–

- (a) in subsection (1) (power of competent authority to dispose of vehicle) for “Subject to subsections (3) to (5A) below” substitute “Subject to subsection (3) and section 101A below”;
- (b) omit subsections (4) to (6) (right of owner to recover vehicle or proceeds of sale).

(2) After that section insert–

“101A Right of owner to recover vehicle or proceeds of sale

(1) If before a vehicle is disposed of by an authority under section 101 above it is claimed by a person who–

- (a) satisfies the authority that he is its owner, and
- (b) pays the relevant charges,

the authority shall permit him to remove the vehicle from their custody within such period as they may specify or, in the case of an authority other than a local authority, as may be prescribed.

(2) If before the end of the period of one year beginning with the date on which a vehicle is sold by an authority under section 101 above a person satisfies the authority that at the time of the sale he was the owner of the vehicle, the authority shall pay him any sum by which the proceeds of sale exceed the amount of the relevant charges.

(3) In the case of a vehicle found in an area that is a civil enforcement area for parking contraventions, the relevant charges are–

- (a) any penalty charge payable in respect of the parking of the vehicle in the place from which it was removed,
- (b) such unpaid earlier penalty charges relating to the vehicle as may be prescribed, and
- (c) such sums in respect of the removal and storage of the vehicle–
 - (i) as the authority may require in accordance with Schedule 9 of the Traffic Management Act 2004, or
 - (ii) in the case of an authority other than a local authority, as may be prescribed.

(4) In any other case the relevant charges are such sums in respect of the removal and storage of the vehicle as may be prescribed.

(5) If in the case of any vehicle it appears to the authority in question that more than one person is or was its owner at the relevant time, such one of them as the authority think fit shall be treated as its owner for the purposes of this section.

(6) In this section—

“civil enforcement area for parking contraventions” and “penalty charge” have the same meaning as in Part 6 of the Traffic Management Act 2004; and
“owner” has the same meaning as in section 101 above.

101B Representations and appeals

(1) The Lord Chancellor may make regulations entitling a person who in the case of a vehicle found in an area that is a civil enforcement area for parking contraventions—

- (a) is required to pay an amount on recovering the vehicle under section 101A(1), or
- (b) receives a sum in respect of the vehicle under section 101A(2) or is informed that the proceeds of sale did not exceed the aggregate amount mentioned in that provision,

to make representations to the authority concerned and to appeal to an adjudicator if his representations are not accepted.

(2) The regulations may make such provision in connection with the rights conferred as appears to the Lord Chancellor to be appropriate, and may in particular make provision—

- (a) requiring the authority to give a person notice of the rights conferred by the regulations,
- (b) as to the grounds on which, and time within which, representations may be made;
- (c) requiring supporting evidence in such circumstances as may be specified;
- (d) as to the duties of the authority when representations are received;
- (e) as to the circumstances in which there is a right of appeal to an adjudicator,
- (f) generally as to the making, determination and effect of, and procedure in connection with, such appeals, and
- (g) enabling an adjudicator to review any decision made on, or in the course of, an appeal.

(3) The regulations may include provision authorising an adjudicator to require a person—

- (a) to attend to give evidence at the hearing of an appeal, and
- (b) to produce any documents in his custody or under his control relating to any matter relevant for the purposes of the appeal,

and making it a criminal offence triable summarily and punishable with a fine not exceeding level 2 on the standard scale to fail to comply with such a requirement.

(4) The regulations may include provision authorising an adjudicator to make an order for the payment of costs and expenses by a party to an appeal in such circumstances as may be specified.

(5) The functions of adjudicators under this section shall be discharged by the persons appointed as adjudicators for the purposes of Part 6 of the Traffic Management Act 2004

(civil enforcement of road traffic contraventions) and any arrangements made for the discharge of their functions under that Part also have effect for the purposes of this section.”.

Commencement

Sch. 11 para. 3-(2): July 23, 2007 in relation to England for the provision specified in SI 2007/2053 art.2(2)(i); March 31, 2008 in relation to England for provisions specified in SI 2007/2053 art.3(2)(g); March 31, 2008 in relation to Wales (SI 2007/2053 art. 3(2)(g), art. 2(2)(i))

Extent

Sch. 11 para. 3-(2): England, Wales

Law In Force

4

(1) Section 102 of the Road Traffic Regulation Act 1984 (c. 27) (charges for removal, storage and disposal of vehicles) is amended as follows.

(2) For subsection (2) (recovery of charges) substitute—

“(2) If the place from which the vehicle is removed is in an area that is not a civil enforcement area for parking contraventions—

- (a) the appropriate authority is entitled to recover from any person responsible such charges as may be prescribed in respect of the removal of the vehicle;
- (b) the chief officer of a police force or a local authority in whose custody the vehicle is during any period is entitled to recover from any person responsible charges ascertained by reference to a prescribed scale in respect of that period; and
- (c) the chief officer of a police force or a local authority who dispose of the vehicle in pursuance of section 101 of this Act is entitled to recover from any person responsible charges determined in the prescribed manner in respect of its disposal.

(2A) If the place from which the vehicle is removed is in an area that is a civil enforcement area for parking contraventions, the enforcement authority is entitled to recover from any person responsible such charges in respect of the removal, storage and disposal of the vehicle as they may require in accordance with Schedule 9 of the Traffic Management Act 2004.”.

(3) In subsection (8) (interpretation) at the appropriate place insert—

““civil enforcement area for parking contraventions” and “enforcement authority” have the same meaning as in Part 6 of the Traffic Management Act 2004;”;

(4) In subsection (9) (application of provisions to parking places provided under letting or other arrangements), for “subsection (2)(d)” substitute “subsection (2A)”.

Commencement

Sch. 11 para. 4-(4): March 31, 2008 in relation to England for provisions specified in SI 2007/2053 art.3(2)(g); March 31, 2008 in relation to Wales (SI 2007/2053 art. 3(2)(d), art. 2(2)(g))

Extent

Sch. 11 para. 4-(4): England, Wales

Tribunals and Inquiries Act 1992

✔ Law In Force

5

In Part 1 of Schedule 1 to the Tribunals and Inquiries Act 1992 (c. 53) (tribunals under direct supervision of Council on Tribunals), in paragraph 40 (road traffic) for sub-paragraph (b) substitute–

“(b) an adjudicator appointed for the purposes of Part 6 of the Traffic Management Act 2004 (civil enforcement of road traffic contraventions).”.

Commencement

Sch. 11 para. 5-: March 31, 2008 in relation to England for provisions specified in SI 2007/2053 art.3(2)(g); March 31, 2008 in relation to Wales (SI 2007/2053 art. 3(2)(d), art. 2(2)(g))

Extent

Sch. 11 para. 5-: England, Wales

London Local Authorities Act 1995

Ⓟ Partially In Force

6

In the London Local Authorities Act 1995 (c. x)–

(a) in section 2 (interpretation), for the definition of “special parking area” substitute–

““special enforcement area” means a special enforcement area designated by order of the Secretary of State under Schedule 10 of the Traffic Management Act 2004;”;

(b) in section 9(1) (special temporary prohibitions) for “special parking area” substitute “special enforcement area”.

Commencement

Sch. 11 para. 6-(b): March 31, 2008 in relation to England for provisions specified in SI 2007/2053 art.3(2)(g); not yet in force otherwise (SI 2007/2053 art. 3(2)(d), art. 2(2)(g))

Extent

Sch. 11 para. 6-(b): England, Wales

London Local Authorities and Transport for London Act 2003

 Partially In Force

7

In section 20 of the London Local Authorities and Transport for London Act 2003 (c. iii) (disclosure of information about identity of owner of vehicle), in subsection (2) (enactments for purposes of which disclosure may be made) for paragraphs (b) to (d) substitute—

“(b) Part 6 of the Traffic Management Act 2004 (civil enforcement of road traffic contraventions).”.


Commencement

Sch. 11 para. 7-: March 31, 2008 in relation to England for provisions specified in SI 2007/2053 art.3(2)(g); not yet in force otherwise (SI 2007/2053 art. 3(2)(d), art. 2(2)(g))

Extent

Sch. 11 para. 7-: England, Wales

SCHEDULE 12**REPEALS****Section 98****PART 1****CIVIL ENFORCEMENT**

 Partially In Force

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Road Traffic Regulation Act 1984 (c. 27)	Section 8(1A) and (1B). Section 11(2) and (2A). In section 47(1), the words “; but this subsection does not apply in relation to any designated parking place in Greater London”. Section 101(4) to (6). In section 102(8), the definition of “London authority” and the word “and” preceding it.
Road Traffic Act 1988 (c. 52)	Section 36(1A).
Road Traffic Act 1991 (c. 40)	Section 43. Sections 65 to 67. Section 68(2) and (3)(c). Sections 69 to 74A. Sections 76 to 79. Schedule 3. Schedule 6.
Local Government Wales Act 1994 (c. 19)	In Schedule 7, paragraph 43(b).
London Local Authorities Act 1995 (c. x)	Sections 4, 5, 7 and 8.
Greater London Authority Act 1999 (c. 29)	Section 283(2) and (4). Section 284. Section 286.
Transport Act 2000 (c. 38)	Section 144.
London Local Authorities Act 2000 (c. vii)	In section 3(1), the definition of “special parking area”. Sections 4 to 14.
London Local Authorities and Transport for London Act 2003 (c. iii)	Sections 4 to 7. Sections 14 and 15. Schedule 1. In Schedule 2– (a) in the heading, the words from “4” to “and”; (b) paragraph 1(a); (c) paragraph 5 and 6. Schedule 3.

Commencement

Sch. 12(1) para. 1-(c): March 31, 2008 in relation to England for repeals specified in SI 2007/2053 art.3(2)(h); March 31, 2008 in relation to Wales; not yet in force otherwise (SI 2007/3174 Pt 1 art. 2; SI 2007/2053 art. 3(2)(h))

Extent

Sch. 12(1) para. 1-(c): England, Wales

PART 2

OTHER REPEALS

Law In Force

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Road Traffic Offenders Act 1988 (c. 53)	In Schedule 1, in column 2 of the entry relating to section 163 of the Road Traffic Act 1988 the words “by constable”. In Part 1 of Schedule 2, in column 2 of the entry relating to section 37 of the Road Traffic Act 1988 the words “by constable regulating traffic”, and in column 2 of the entry relating to section 163 of the Road Traffic Act 1988 the words “by constable”. In Schedule 3, in column 2 of the entry relating to section 163 of the Road Traffic Act 1988 the words “by constable in uniform”.
London Local Authorities and Transport for London Act 2003 (c. iii)	Section 12.

Commencement

Sch. 12(2) para. 1: October 4, 2004 in relation to England; October 26, 2006 in relation to Wales otherwise (SI 2006/2826 art. 2(2)(e); SI 2004/2380 art. 2(h))

Extent

Sch. 12(2) para. 1: England, Wales

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Traffic Management Act 2004 which received Royal Assent on 22nd July 2004. They have been prepared by the Department for Transport in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.

2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

TERRITORIAL EXTENT

3. The Act extends only to England and Wales.

SUMMARY AND OVERVIEW OF THE ACT

4. The Act is in seven Parts.

Part 1

Traffic Officers

5. Part 1 empowers the Secretary of State for Transport, in his capacity as highway and traffic authority for the strategic road network in England, (i.e. most motorways and all other trunk roads), to establish a uniformed on-road traffic officer service to manage the traffic consequences of random incidents (such as accidents, obstructions, debris and break downs) and manage programmed highway events such as the passage of abnormal loads. In practice the Secretary of State carries out his functions as highway and traffic authority through the Highways Agency, which is an executive agency of the Department for Transport, and the Highways Agency would be implementing this part of the Act on his behalf.

6. The Act also empowers the National Assembly for Wales, in their capacity as highway and traffic authority for the strategic road network in Wales, to so establish a traffic officer service in Wales.

7. The Act enables some traffic management functions on motorways and other trunk roads currently carried out by the police to be carried out by traffic officers. The Act provides for traffic officers to have powers to stop and direct traffic, and place and operate traffic signs to deal with incidents and keep traffic moving.

Part 2

Network management by local traffic authorities

8. Part 2 imposes a duty on all local traffic authorities to secure the expeditious movement of traffic on their road networks, and to facilitate the expeditious movement of traffic on other authorities' networks. Authorities are required to make arrangements as they consider appropriate for planning and carrying out the action to be taken in performing the duty; part of the arrangements must be the appointment of a "Traffic Manager".

9. If an authority is failing properly to perform its network management duty, or duty to make appropriate arrangements, then the Act provides for the Secretary of State (in England) and the National Assembly for Wales (in Wales) to appoint a "Traffic Director" in relation to that authority. The national authority must, among other things, set out such objectives for the traffic director as the national authority considers will secure that the duty or duties are being properly performed.

Part 3

Permit schemes

10. Part 3 provides for the introduction of permit schemes by order of the Secretary of State (in England), and the National Assembly for Wales (in Wales). A permit scheme would control specified works in the street in a particular area and would require a permit to be obtained for such works. The Act provides that permit schemes could extend to works such as road works and street works, and could extend to corresponding works. A permit scheme may provide for conditions to be attached to permits which would apply in relation to the carrying out of specified works.

Part 4

Street Works

11. Part 4 provides for changes to the regulatory regime for utility companies' street works.

12. The Act also provides for increases in levels of fines of specified offences, and provides for highway authorities to issue Fixed Penalty Notices for certain offences.

Part 5

Highways and Roads

13. Part 5 includes specific measures that alter the arrangements for traffic management in London. These include provisions for the Secretary of State to designate an initial network of strategic roads (and for changes to that network to be made by the Assembly or the Mayor of London acting on its behalf). The purpose of designating this network is to enhance Transport for London's (TfL's) powers in relation to Borough roads by enabling it to object to proposals that would affect strategic roads.

14. The Act also amends the Highways Act 1980, most notably to provide for regulations to apply 'lane rental' charges to skips, scaffolding, building materials and temporary excavations that occupy the highway.

Part 6

Civil enforcement of traffic contraventions

15. Part 6 includes powers providing a single framework to make regulations for the civil enforcement by local authorities of parking and waiting restrictions, bus lanes and some moving traffic offences. These regulations will replace existing powers in national and London local legislation. It will enable regulations to be made giving authorities outside London civil enforcement powers to cover some moving traffic offences (such as ignoring the rules at box junctions and banned turns) using camera evidence, and additional powers in respect of parking enforcement which already exist in London.

16. The Act also gives the appropriate national authority a reserve power to direct a local authority outside London to apply for civil parking enforcement powers.

Part 7

Miscellaneous and general

17. Part 7 contains general and miscellaneous provision, including provision relating to Blue Badges, for the application of surplus income from parking places, and financial provision for the establishment of traffic officers.

COMMENTARY ON SECTIONS

Part 1: Traffic Officers

Background

18. The Government has charged the Highways Agency with developing its role as strategic road network operator. In pursuance of this the Agency has undertaken, in partnership with the Association of Chief Police Officers, a review of the roles and responsibilities of both the police and the Highways Agency for traffic management on the network. The review concluded that responsibility for a number of tasks associated with traffic management should transfer from the police to the

Highways Agency. It recommended that the Highways Agency assume a greater traffic management role and establish:–

- **Traffic Officers:** On-road officers who would have the powers to stop and direct traffic, and whose main role would be to support road users and keep traffic flowing by implementing traffic management measures.
- **Regional Control Centres:** Control offices around the network, to be staffed by both the Highways Agency and police, which would monitor and manage traffic on the network and direct on-road resources.

19. On 20th June 2003 the Secretary of State for Transport made a statement to the House of Commons setting out his policy for future management of the network. The statement indicated that the Government endorsed the review and that the Agency would be working with the police and others to implement its recommendations.

20. The Secretary of State has the legal power to establish and operate regional control centres, but primary legislation is required in order to establish traffic officers with traffic management powers.

Sections 1 & 2: Designation of traffic officers

21. These sections empower the Secretary of State (in England) and the National Assembly for Wales (in Wales), to designate individuals to act as traffic officers or to authorise another to do so. Traffic officers would thus either be employed directly by the appropriate national authority or they would be employed by external service providers. During the early years of operating a traffic officer service in England it is expected that all traffic officers will be designated by the Secretary of State and will be employees of the Highways Agency. In the longer term there is the option to employ contractors to provide the traffic officers.

22. Traffic officers' duties must be related to the management of traffic on roads for which the appropriate national authority is the traffic authority, or the performance of any of the authorities' other functions as highway or traffic authority for trunk roads. Thus for example, in addition to traffic management, they would be able to carry out incidental or supportive tasks such as monitoring the condition of the road and reporting on any defects or problems.

Section 3: Jurisdiction of traffic officers

23. Section 3 defines the roads over which traffic officers will be able to exercise their special powers (see section 5 and the notes on that section). These are likely to be all roads for which the national authority is the traffic authority within the relevant national boundary. However, the section provides that their jurisdiction may be limited to specific roads. This might be used where traffic officers are designated by service providers who have a contract to provide a traffic service for a specific area.

Section 4: Powers to direct traffic officers

24. Traffic officers would be directed by or on behalf of the appropriate national authority. However, to prevent any potential conflict between their role on the ground and that of the police in dealing with traffic accidents or incidents this section empowers the police to exercise primacy. In practice, this means that the police may opt to deal with incidents themselves, with or without traffic officer support, or allow traffic officers to act without police involvement. This section also provides that where traffic officers are contracted out, the appropriate national authority may still give them direct instructions.

Section 5: The special powers of a traffic officer

25. Section 5 sets out restrictions and limitations on the exercise of traffic officers' constabulary-type powers, referred to as “special powers”. Those special powers are the power to stop and direct traffic, power to place temporary traffic signs, and any other constabulary-type power which they may be given by legislation.

26. These powers may only be used to assist traffic movement, avoid danger to persons or traffic or prevent damage to the road or anything on or near the road or for incidental purposes.

27. Traffic officers would be able to use their special powers on roads within their jurisdiction. They would also be able to use their special powers on any other roads in England and Wales provided they were acting under the direction of the police for the area in which the road is situated or with the consent of the traffic authority for the road.

28. In practice, this means, for example, that although traffic officers' jurisdiction is to be on the national authority's roads, where an accident on such a road results in significant impact on traffic elsewhere, or where advance warnings need to be in place quickly on approach roads to warn traffic of problems on the national authority's road, traffic officers might be asked to operate temporarily on a local road at the direction of the police, or with agreement of the local highway authority. It is anticipated that operating protocol will be agreed in advance with the local highway authorities and police. A similar approach applies at the border between England and Wales.

Section 6: Powers to stop or direct traffic

29. Section 6 provides for traffic officers to have similar powers to those held by the police under the Road Traffic Act 1988 (“RTA”) to require vehicles, cyclists and pedestrians to stop and to require vehicles and cyclists to proceed in a particular direction.

30. The section 35 RTA offences (failure of drivers or cyclists to stop or proceed as directed) carry a maximum fine of level 3 on the standard scale (£1,000) and in certain cases endorsement and possibly disqualification. The offences are also fixed penalty offences carrying fines of up to £60.

31. The section 37 RTA offence (failure of pedestrians to stop when directed) carries a maximum fine of level 3 on the standard scale (£1,000).

32. The section 163 RTA offence (failure of drivers or cyclists to stop when directed) carries a maximum fine of level 3 on the standard scale (£1,000). The offence is also a fixed penalty offence carrying a fine of £30.

Section 7: Powers to place temporary traffic signs

33. Section 7 provides for traffic officers to have a similar power to a police constable to place and maintain traffic signs on the highway. The signs may be used to indicate prohibitions, restrictions or requirements relating to traffic to deal with congestion or obstruction of traffic or danger to or from traffic. Such signage may be placed for a period of up to seven days.

34. The effect of subsection (2) is that section 36 of the Road Traffic Act 1988 applies to any traffic signs so placed by traffic officers. Section 36 makes it an offence not to comply with traffic signs to which it applies.

35. Breach of section 36 carries a maximum fine of level 3 on the standard scale (£1,000). In addition, for breach of certain signs (e.g. stop signs) endorsement is obligatory and disqualification is discretionary. Breach is also a fixed penalty offence with fines of up to £60.

Section 8: Power to confer further special powers on traffic officers

36. Section 8 makes provision for the appropriate national authority to confer further “special powers” on traffic officers by order made by statutory instrument.

37. The Act imposes limitations on both the extent of the powers which may be conferred as well as the purposes for which they may be exercised. Firstly, subsection (2) requires the national authority to be satisfied that any such special power would be necessary to facilitate the performance of any duties which may be assigned to traffic officers. The duties which may be assigned to traffic officers are defined by section 1.

38. Secondly, the exercise of special powers is subject to the restrictions set out in section 5. Subsection (3) of that section provides that special powers may only be exercised for one or more of the purposes specified there.

39. Subsection (3)(b) provides that an order may contain supplemental, incidental transitional or consequential provisions including provision amending existing legislation. The possible use for this power can be seen in the existing special powers granted to traffic officers by sections 6 and 7 of the Act and the associated repeals (see section 98 and Part 2 of Schedule 12). The approach adopted for conferring these special powers is to extend to traffic officers the existing statutory powers granted to police officers. This approach requires amendment of or reference to relevant statutes. It is likely that any further special powers would be similarly granted by way of adoption of existing statutory provisions, or by way of addition to existing road traffic legislation necessitating alteration of related provisions. The wording used in subsection (3)(b) would enable this.

40. The Secretary of State may not make such an instrument unless a draft has been approved by both Houses of Parliament. One made by the National Assembly in relation to Wales would be subject to the Assembly's own procedures, in accordance with the Government of Wales Act 1998. These include a requirement for an affirmative vote of the Assembly in plenary session.

Section 9: Removal of certain vehicles by traffic officers

41. Section 9 modifies, in the case traffic officers, the Secretary of State's power under section 99 of the Road Traffic Regulation Act 1984 to make regulations providing for the removal of vehicles obstructing the highway, or abandoned or broken down or dangerously or illegally parked.

42. Where under section 99 the Secretary of State makes regulations empowering traffic officers to remove such vehicles section 9 will enable consequential provisions to be included. In particular this would enable provisions for the disposal of any such vehicles and for the recovery of the costs relating to their removal storage and disposal. Such provision would be likely to be by way of amendment to sections 100 to 102 of the 1984 Act. Subsection (2) would enable this.

43. Regulations made under section 99 of the 1984 Act are, by section 134(3) of that Act, subject to the negative resolution procedure.

Section 10: Offences

44. Section 10 makes it an offence to assault, resist, wilfully obstruct, or impersonate a traffic officer or fail to give a name and address to a traffic officer when lawfully demanded (as to which see subsections (4) and (5)). The penalties for these offences vary with the offence and are set out in the section. This provides for penalties of fines not exceeding respectively level 5 (£5,000) or level 3 (£1,000) on the standard scale and also for imprisonment.

Section 11: Uniform

45. Section 11 provides for the uniform to be worn by traffic officers to be determined by the appropriate national authority. By virtue of subsection (6) of section 5 a traffic officer may not exercise his special powers on a road unless he is in uniform.

Section 13: Power to acquire land

46. Section 13 gives the appropriate national authority the power to acquire land, if necessary, for the traffic officer service or for other purposes connected with the management of traffic such as for the provision of traffic control centres. Such land may be bought by agreement or compulsorily.

Section 14: Financial assistance to authorised persons

47. Section 14 provides a power to provide financial assistance to authorised persons in respect of traffic officers designated by them.

Part 2: Network Management by Local Traffic Authorities

Section 16: The network management duty

48. Section 16 places a duty on every local traffic authority to manage its road network to secure the expeditious movement of traffic on their road network, and to facilitate traffic movement on other traffic authorities' road networks. The network must be managed with a view to achieving the objective of the duty, so far as may be reasonably practicable, having regard to the local authority's other obligations, policies and objectives. The action a local authority may take in performing the duty includes the exercise of any powers affecting the use of the network, whether or not those powers were conferred on the authority in their capacity as a traffic authority.

Section 17: Arrangements for network management

49. Section 17 requires authorities to make arrangements to carry out their network management duty under section 16. The arrangements must, among other things, include the appointment of a "Traffic Manager".

Sections 18 & 19: Guidance and power to require information

50. Sections 18 and 19 provide for the Secretary of State (in England), or the National Assembly for Wales (in Wales) to issue guidance to authorities about the techniques of network management or other matters relating to the exercise of their network management duties and to obtain information from authorities connected with the performance of those duties. The Secretary of State and National Assembly for Wales are identified in the provisions of Part 2 of the Act as "the appropriate national authority".

Section 20: Intervention Notices

51. Section 20 provides power for the Secretary of State (in England) and the National Assembly for Wales (in Wales) to give an intervention notice to a local traffic authority. Subsection (3) requires the authority to provide any information requested in the notice. Subsection (2)(b) provides the authority with an opportunity to make representations. Subsection (5) provides that the Secretary of State must consult the Mayor prior to any giving notice in respect of a London authority and, if it is given, provide him with a copy of the notice.

Sections 21: Intervention Orders

52. Section 21 provides for an Intervention Order in connection with the appointment of a "Traffic Director" to an authority by the Secretary of State or National Assembly, as appropriate, in the event that they are satisfied that the authority is failing to perform any duty under sections 16 and

17. Under subsection (3) the Order must set out the grounds for the appointment and the Traffic Director's objectives.

53. A Traffic Director may be given the powers which are described in general terms in subsection (5). These are to monitor, to report, to intervene in the activities of the local authority, and to carry out functions of the local authority. Subsection (7) enables the scope of those general powers, as well as when and how such powers may be exercised, to be limited by the Order.

54. Subsection (8) defines the scope of the ancillary powers which may be conferred on the Traffic Director, which may include a requirement for the local authority to provide him with information and assistance. Subsection (9) provides for the amendment of the intervention order setting out the powers of the Traffic Director, after he has been appointed, but only after consultation with the local authority. Subsection (10) provides that the Secretary of State shall consult the Mayor prior to making an intervention order in respect of a London authority.

Section 23: Monitoring and Reporting

55. Section 23 provides that the Intervention Order may confer on a Traffic Director a power to monitor the performance of the local authority of their duties under section 16 and 17 and a power to make reports to the local authority and/or Secretary of State (in England) or the National Assembly for Wales (in Wales).

Section 24: Intervention in activities of local traffic authority

56. Section 24 provides for the powers that an Intervention Order may confer on a Traffic Director to direct a local authority to take (or not take) certain actions.

Section 25: Exercise of local traffic authority functions

57. Section 25 provides that an Intervention Order may confer on a Traffic Director a power to exercise specified functions in place of the authority.

Section 26: Application of sections 20 to 25 to Local Traffic Authorities exercising functions jointly

58. Authorities may exercise jointly a function which is relevant to achieving their duties under sections 16 and 17. Section 26 enables the Secretary of State or National Assembly, by Order, to apply sections 20 to 25 to such cases. Subsection (2) provides that such an Order made by the Secretary of State shall be subject to negative resolution in either House of Parliament.

Sections 27 & 28: Criteria for making Intervention Orders and Guidance to Traffic Directors

59. Section 27 requires the Secretary of State or National Assembly to give guidance about the criteria which it proposes to apply in deciding whether to intervene under this Part. Subsection (2) of that section provides that the guidance shall be appended to an Order made by the Secretary of State (in England) or National Assembly for Wales (in Wales). Subsection (3) provides that an Order of the Secretary of State will be subject to negative resolution in either House of Parliament. Section 28 allows the Secretary of State (in England) or National Assembly for Wales (in Wales), to issue guidance to Traffic Directors. This is not subject to Parliamentary procedure.

Section 29: Traffic Directors in London

60. Section 29 provides for the relationship between the Mayor and a Traffic Director appointed in relation to a London authority, or where a Traffic Director is appointed in relation to Transport

for London. Subsection (3) provides that a Traffic Director need not comply with a direction from the Mayor under Part 4 (Transport) of the Greater London Authority Act 1999.

61. Subsections (6) and (7) provide that where a Traffic Director is appointed in relation to TfL, and exercises the power of TfL to object to a Borough proposal under s. 301A(3) of the Highways Act 1980 or s. 121B(3) of the Road Traffic Regulation Act 1984 (or directs TfL to exercise this power), the Greater London Authority will not be able to override this objection by giving its consent.

Section 30: Recovery of costs from local traffic authorities

62. Section 30 provides that the Secretary of State (in England) or the National Assembly for Wales (in Wales), may recover from an authority the expenditure it has incurred in appointing a Traffic Director to that authority (including expenditure towards any costs incurred by the Traffic Director), after allowing for any of the Traffic Director's costs that are met from other sources.

Section 31: Interpretation of Part 2

63. Section 31 defines various terms in Part 2. It should be noted that local traffic authorities in England are Transport for London, London Borough Councils, the Common Council of the City of London, County Councils, Metropolitan District Councils and Unitary Councils. Among other things, the section provides that “London authority” means Transport for London, a London Borough Council or the Common Council of the City of London; “Mayor” means the Mayor of London; and defines “road network”. It also provides that “traffic” includes “pedestrians”.

Part 3: Permit schemes

Section 32: Meaning of “permit scheme”

64. Section 32 defines the expression “permit scheme” and indicates the provisions which can be included in a permit scheme. The provisions include:

- provisions as to the type of works which do and do not require permits and provisions as to cases where works can be carried out without the issue of a permit (for instance in the case of emergencies);
- provisions as to the conditions which can be attached to the grant of a permit;
- provisions as to arrangements for reviewing or varying permits that have already been issued.

Section 33: Preparation of permit schemes

65. Section 33 makes provision with respect to the preparation of permit schemes.

66. Individual local highway authorities (e.g. a county council), or two or more such authorities, may prepare and submit a permit scheme to the appropriate national authority. In this Part, the appropriate national authority is the Secretary of State (in England), or the National Assembly for Wales (in Wales).

67. The appropriate national authority may direct an individual highway authority, or two or more such authorities, to prepare and submit to it a permit scheme in the form it directs.

68. In addition, the appropriate national authority can prepare a permit scheme. Such a scheme prepared by the Secretary of State could cover streets in the Royal Parks.

69. The section provides that those preparing permit schemes must comply with any regulations made under this Part of the Act (referred to in this Part as “permit regulations”). In addition, those preparing schemes must have regard to any guidance that may be issued by the appropriate national authority.

Section 34: Implementation of local highway authority permit schemes

70. Section 34 provides for the implementation of local highway authority permit schemes. Such a scheme shall not come into effect other than by an order of the appropriate national authority. The order must set out the scheme and specify the date on which it starts operation. The order may include provisions which disapply or modify enactments provided the provisions are in accordance with permit regulations.

Section 35: Implementation of other permit schemes

71. Section 35 makes provision corresponding to section 34 in relation to permit schemes prepared by the appropriate national authority.

Section 36: Variation and revocation of permit schemes

72. Section 36 provides that the appropriate national authority may subsequently make a further order varying or revoking a permit scheme which is in force. An order under this section may relate to one or more permit schemes. In addition, an order may vary or revoke an order previously made by a national authority giving effect to a particular permit scheme, or an order under this section. An order made under this section may revoke or disapply enactments to the extent specified in the order, provided that it is in accordance with permit regulations.

Section 37: Permit regulations

73. Section 37 enables the appropriate national authority to issue permit regulations which make provision with respect to the content, preparation, submission, approval, operation, variation or revocation of permit schemes.

74. Subsection (2) enables the regulations to provide for certain standard provisions to apply in relation to permit schemes.

75. Subsection (3) enables regulations to make provision in relation to the matters mentioned in section 33(2), including, for example, provision as to the types of conditions that can be attached to a permit. Subsection (3)(b) enables the regulations to make provision for the purpose of limiting the streets, or type of streets, which may be subject to a permit scheme.

76. Subsection (4) enables the regulations to make further provision, including:

- the criteria which permit scheme operators have to take into account in deciding whether to issue a permit, with or without conditions, or in considering whether to review or vary a permit;
- provision for the determination of disputes or to enable the facilitation of the determination of disputes (including provision as to mediation, representations, hearings, arbitration and adjudication if appropriate). Connected matters such as costs could also be provided for, as well as provision for the appointment of persons to make or facilitate the determination of disputes.
- conferring a right of appeal (including provision for persons to hear appeals);
- the creation of one or more criminal offences (attracting a maximum fine of £5,000 on summary conviction) in connection with permits.

77. Subsection (5) provides that regulations made under subsection (4) require the consent of the Lord Chancellor before they can be made in cases where the regulations make provision for or in connection with adjudication.

78. Subsection (6) provides that regulations may provide for the introduction of fixed penalty notices in relation to any of the criminal offences which are created under the regulations.

79. Subsection (7) enables the regulations to make provision for the payment of fees in connection with one or more specified stages of the permitting process, including an application for the issue of a permit.

80. Subsection (8) enables the regulations to make further provision in relation to the payment of fees, including cases where fees are not payable, provision for the repayment of fees, what those fees should be and what use permit scheme operators can make of any sums raised through fees.

81. Subsection (9) requires that the national authority, in making regulations in relation to permit fees, must try to ensure that the fees payable by users of the schemes do not exceed certain costs. The costs may be prescribed by the national authority, and these could include, for instance, costs in connection with issuing permits, keeping a register of permits and enforcement measures for schemes, such as inspectors.

82. Subsection (10) enables the national authority to make use of estimates of costs when it makes an assessment of the level of costs to authorities of operating a permit scheme. These estimates may include the average costs to authorities or to particular descriptions of authority.

83. Subsection (11) enables the regulations to require registers to be kept with information on permits and to make provision in connection with the access to information contained in such a register, and for the keeping of accounts in relation to permit schemes.

84. Subsection (12) enables the regulations to provide for cases in which a highway authority, or two or more highway authorities acting together, can prepare a permit scheme in respect of streets for which they are not the highway authority.

85. Subsection (13) enables the regulations to modify or disapply enactments in connection with permit schemes.

Section 38: Crown application

86. Section 38 provides for permit schemes to apply to works carried out by, or on behalf of, central government. Works carried out by or on behalf of the Queen in her private capacity will not require a permit.

Section 39: Interpretation of Part 3

87. Section 39 defines certain expressions and words used elsewhere in Part 3. Of particular note is the definition of “works”. This defines the works for which it might potentially be necessary to obtain a permit in areas where a scheme is in operation. This includes utility street works and works governed by the Highways Act 1980. The latter could include highway authority road works, the placing of skips and the deposit of building materials in the highway.

88. The section provides that the Secretary of State may not make the first set of permit regulations unless a draft has been approved by both Houses of Parliament. Any further permit regulations will be subject to the negative resolution Parliamentary procedure.

Part 4: Street Works

89. Part 3 of the New Roads and Street Works Act 1991 (NRSWA) contains the scheme for managing street works in England and Wales. All references in this part to NRSWA are to be taken as references to Part 3 of that Act. The regulation making powers in NRSWA are exercised by the Secretary of State (in England), and by the National Assembly for Wales (in Wales). References in this Part to the power of the Secretary of State to make regulations should be read accordingly.

Section 40 and Schedule 1: **Increase in penalties for summary offences under 1991 Act**

90. Section 40 increases the maximum fines for a number of summary offences under NRSWA from level 3 (£1,000) to levels 4 (£2,500) or 5 (£5,000).

91. Subsection (3) increases the maximum fine to level 4 (£2,500) in the case of an offence consisting of a failure to comply with section 70(3) (requirement to give notice of completion of permanent or interim reinstatement) or 70(4A) (requirement to give notice of completion of reinstatement), and to level 5 (£5,000) for other offences under that section.

92. Subsection (4) increases the maximum fines for offences under regulations made under section 74 (overrun charges) and section 74A (lane rental) to level 4. These offences relate to failure to give notices.

93. Subsection (5) increases the penalties for offences under section 88 of NRSWA (which relates to cases where an undertaker carries out street works affecting the structure of a bridge). The maximum fine for the offence of failing to give the bridge authority reasonable facilities for monitoring the execution of the works is increased to level 4. The maximum fine for the offence of failing to consult the bridge authority before giving notice or failure to comply with a requirement necessary for the protection of the bridge is increased to level 5.

Section 41 and Schedules 2 and 3: **Fixed penalty offences**

94. Section 41 inserts a new section 95A into NRSWA to create a fixed penalty notice system for offences.

95. The table identifying the offences to which fixed penalty notice regime applies is in Schedule 2 to the Act (which inserts a new Schedule 4A to NRSWA). The details of how the system will operate are contained in Schedule 3 to the Act (which inserts a new Schedule 4B to NRSWA).

96. Subsection (1) of the new section 95A provides that any offence under Part 3 of NRSWA which is listed in the first column of the new Schedule 4A is a fixed penalty offence for the purposes of that Part.

97. Subsection (2) of the new section 95A provides that offences committed by virtue of section 166 of NRSWA are not fixed penalty offences. In general terms, the effect of section 166 is that in cases where an offence by a body corporate is committed with the connivance or consent, or is attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body, then that officer is also guilty of an offence, and is liable to be prosecuted in the courts. Given subsection (2), the street authority will continue to prosecute such offences through the Magistrates' Court. Section 166 of NRSWA deals separately with the position of Scottish partnerships in Scotland. The Act does not extend to Scotland, and the reference to Scotland in the Act is simply to accurately reflect the ambit of section 166.

98. Subsection (3) of the new section 95A provides that the Secretary of State may by order modify the new Schedule 4A in NRSWA to provide for an offence under Part 3 of NRSWA to become or cease to be a fixed penalty offence. Subsection (4) of the new section 95A provides that the Secretary of State may not make such an order unless a draft has been approved by both Houses of Parliament.

99. Schedule 3 to the Act inserts a new Schedule 4B into NRSWA, which contains the provisions that apply where an authorised officer of a street authority gives a person (generally an utility) a fixed penalty notice.

100. Paragraph 4 of Schedule (4B) provides for the amount of the penalty and the period for payment. Sub-paragraph (1) of that paragraph provides that (subject to paragraph 5) the penalty is to be prescribed by the Secretary of State, but that it may not exceed 30% of the maximum fine for that offence. Sub-paragraph (2) provides that the period for payment of the penalty is the period of 29 days beginning with the day on which the notice is given, and sub-paragraph (3) provides a power to the street authority to extend the period for paying the penalty if they think it appropriate to do so.

101. Paragraph 5 of the Schedule provides for the amount of the penalty to be discounted, and the period for payment of that discounted penalty. Sub-paragraph (1) of that paragraph provides that the discounted penalty is payable if payment is made during the period of 15 days beginning with the day on which the notice is given. Sub-paragraph (2) provides that the discounted amount is prescribed by the Secretary of State and may not exceed 25% of the maximum fine for that offence.

102. Paragraph 6(2) of the Schedule provides that no proceedings for the offence may be commenced before the end of the period for payment of the penalty, and paragraph 6(3) provides that no proceedings may be commenced or continued if payment of the penalty is made before the end of the period for payment of the penalty, or accepted by the street authority after that time. It is a matter for the street authority whether to accept a payment after the period for payment of the penalty has passed.

103. Paragraph 7 of the Schedule provides for a power of the street authority to withdraw notices, in cases where they have been erroneously served or consider there are extenuating circumstances. Sub-paragraph (3) provides that the street authority is bound to consider any representations made by or on behalf of a person given a notice, and that they must decide in all the circumstances whether to withdraw the notice.

104. Where the penalty is not paid during the period for payment, the street authority may commence a prosecution in the Magistrates Court in the usual way.

105. Paragraph 8 of the Schedule provides that the Secretary of State may (with the consent of the Treasury) make regulations about the application by street authorities of fixed penalties paid under the Schedule and for the keeping of accounts etc.

106. Paragraph 9(a) and (c) of the Schedule provides that the Secretary of State may make regulations prescribing the circumstances in which a fixed penalty notice may not be given, and the methods for the payment of penalties (which may, for example, be electronic). Paragraph 9(b) enables the Secretary of State (in England) or the National Assembly for Wales (in Wales) to substitute the periods specified in paragraphs 4(2) and 5(1) (period for payment of the penalty and discounted penalty respectively) for different periods. The regulations would be subject to the negative procedure.

Section 42: Duty of street authority to co-ordinate works

107. Under section 59 of NRSWA, a street authority has a duty to co-ordinate statutory undertakers' street works and their own road works. The section amends section 59 to provide for that duty to be extended to encompass the co-ordination of certain other prescribed temporary activities on the highway, for example the placing of skips and scaffolding.

Section 43: Directions relating to timing of street works

108. Section 43 amends section 56 of NRSWA. Section 56 gives authorities certain powers to direct utilities as to the time at which their works may be carried out, where the authority believe that the works would otherwise cause serious disruption to traffic. At present NRSWA enables the authority to direct the utility only to carry out work at certain times of the day, for example between 10am and 3pm. If they work outside of the directed times they commit an offence.

109. The amendment made by subsection (2) enables an authority to direct a utility only to carry out works at certain times and on certain days, or both at certain times and days, for example between 10am and 3pm on the 1st and 2nd of November.

110. At present, the direction may only deal with proposed works. Subsection (3) adds a new subsection (1A) to section 56 of NRSWA, which enables a street authority to make a direction where works have already commenced.

Section 44: Directions as to placing of apparatus

111. Section 44 inserts a new section 56A into NRSWA. Section 56A enables the street authority to direct an undertaker not to use a proposed street to place their apparatus, if it appears to the street authority that this is likely to cause disruption to traffic, and there is another street in which the apparatus could be placed. In order to make such a direction there has to be at least one other reasonable alternative route, which if used would result in less disruption. Further, the installation of the apparatus in the alternative street must be a reasonable way of achieving the purpose for which the apparatus is to be placed, and it must be reasonable to require the undertaker not to place the apparatus in the street proposed by the undertaker. In making its direction, the authority cannot direct an undertaker to use a particular alternative street, but may merely prevent the undertaker from installing apparatus in certain streets. The section creates a level 5 offence for contravening such a direction.

112. Subsection (4) provides for regulations prescribing the procedure for giving directions and subsection (5) provides for regulations dealing with appeals. Subsection (8) provides that the Secretary of State may issue or approve a code of practice giving practical guidance as to the exercise by street authorities of the power conferred by this section, and provides that in exercising that power a street authority must have regard to the code of practice.

Section 45: The street works register

113 Section 45 amends section 53 of the NRSWA which places a duty on street authorities to keep a register showing with respect to each street for which they are responsible such information as may be prescribed with respect to the street works, and such other descriptions of works as may be prescribed, executed or proposed to be executed in the street (an example of other works are local authority road maintenance works).

114. Subsection (2) amends section 53(1) so as to confer a power to make regulations to require the street authority to keep additional information on the register, including information about any of the following:

- apparatus placed or proposed to be placed in the street;
- builders' skips deposited or proposed to be deposited in the street;
- scaffolding or other structures, which are erected, or proposed to be erected in the street.

115. Section 53(4) and (5) of NRSWA provide that the Secretary of State can make arrangements for the duty of an individual street authority to keep a register for its area to be satisfied by the

appointment of someone to keep one or more “central” registers. Subsection (3) inserts a new subsection (4A) into section 53 providing that a “central register” means a register covering two or more authority areas.

116. Subsection (4) inserts a new subsection 5(A), which enables the Secretary of State to require a street authority to share information on its register with a person appointed to keep a central register.

Section 46: Records of location of apparatus

117. Section 46 amends section 79 of NRSWA which requires, except in such cases as may be prescribed, that an undertaker shall record the location of every item of apparatus belonging to him as soon as reasonably practicable after placing it in the street or altering its position, locating it in the street in the course of executing any works, or being informed of its location under section 80 of NRSWA (duty to inform undertakers of location of unidentified apparatus).

118. Subsection(2) inserts a new subsection (1A) into section 79 of NRSWA. It provides that an undertaker can (except in circumstances prescribed in regulations) include in its section 79 records other records not required to be included in the records kept by undertakers under section 79.

119. Subsection (3) inserts a new subsection (2A) into section 79 of NRSWA. It provides that regulations under section 79(2) as to the form and manner of records (for instance regulations providing that the records should be held in electronic form) may apply to records made before the regulations take effect.

Section 47: Duties relating to the location of unexpected apparatus

120. Section 47 amends section 80 of NRSWA which imposes duties on a person carrying out works in the street where he discovers apparatus belonging to another person which is either not marked, or is wrongly marked, on existing location records.

121. Subsection(2) amends section 80(1) of NRSWA to clarify that the records in question are those kept by undertakers under section 79 of that Act.

122. Subsection (3) inserts a new subsection (1A) into section 80 to provide that regulations may prescribe exceptions to the duty in section 80. Subsection (4) substitutes subsections (2) and (2A) into section 80. Subsection (2) provides that a person executing works of any description in the street who finds apparatus which does not belong to him, and who is unable, after taking such steps as are reasonably practicable, to ascertain to whom the apparatus belongs, must comply with such requirements as may be prescribed in regulations for making and keeping a record of the location and nature of the apparatus and whether it is in use, and to inform the street authority or any other person of those matters. Subsection (2A) provides that regulations under subsection (2) may make provision as to the form and manner in which records are to be kept, and the manner in which or time at or by which information is to be given, and also for records which are to be kept by undertakers to be included in the records kept by them under section 79(1).

123. Section 80(4) of NRSWA provides that it is an offence not to comply with the requirements set down in section 80(1) and 80(2). Subsection (5) provides that the offence applies in respect of any requirement imposed upon a person under subsection (2).

124. Subsection (6) allows for the establishment of one or more registers of information to be held on apparatus which is unearthed in the course of works where it is not possible to identify who the apparatus belongs to.

Section 48: Duty to inspect records

125. Section 48 inserts section 53A (duty to inspect records) into NRSWA. That section enables the Secretary of State to create a new duty in regulations requiring an undertaker who wishes to carry out street works to inspect statutory records (for instance records of the apparatus already located in that street) before doing so. The street works to which the duty applies and the records which must be inspected are to be set out in regulations.

126. The procedure for inspecting records, and how an undertaker could prove that he had carried out an inspection, may be set out in regulations.

127. The inserted section also enables the regulations made under it to create a level 5 offence (with a maximum fine of £5,000) where an undertaker fails to comply with the requirements of the regulations.

Section 49: Notices of street works

128. Section 49 rectifies some problems with the giving of advance notices by undertakers under sections 54 and 55 of NRSWA. Subsection (1) amends subsection (3) of section 54 of the 1991 Act. It provides that the advance notice under section 54 must contain the date when the works are intended to start and such other information as may be prescribed. It also inserts a new subsection (4A) into section 54. This requires that if an undertaker does not submit before this start date a further notice, required nearer to the time of works under section 55, then it must supply the authority with a further notice. This notice will contain such information as may be prescribed. Subsection (1) also inserts a new subsections (4B) and (4C) into section 54 which provides that if works have not substantially begun within a prescribed period after the proposed start date in a section 54 advance notice, then the notice ceases to have effect, meaning the proposed works cannot lawfully begin. If the undertaker still wishes to carry out the works, he will have to start the process of giving advance notice all over again. Different periods may be prescribed for different descriptions of works.

129. Subsection (2) inserts new subsections (8) and (9) into section 55 of NRSWA to provide that if a notice becomes invalid under section 55 then an undertaker must provide a further notice containing such information as may be prescribed. If the undertaker fails to provide this further notice he commits a criminal offence and is liable on summary conviction to a fine not exceeding level 4 fine on the standard scale (£2,500). Subsection (3) amends section 93, to make similar provision in respect of works affecting level crossings or tramways.

Section 50: Qualifications of supervisors and operatives

130. Section 50 amends section 67 of NRSWA which provides that when carrying out street works involving breaking up the street, or any sewer, drain or tunnel under it, or tunnelling or boring into the street an undertaker must secure that, except in such cases as may be prescribed, the execution of the works is supervised by a person having a prescribed qualification. They must also ensure that when such works are in progress there is always at least one person on site having a prescribed qualification as an operative. Subsections (2) and (3) insert new subsections (1A)(a) and (2A)(a) into section 67, to enable a street authority where such works are taking place or have taken place, to require by notice that an undertaker provide the names of the current or previous qualified persons, and evidence of the required qualification.

131. Subsections (2) and (3) also insert new subsections (1A)(b) and (2A)(b) into section 67 to enable regulations to prescribe the evidence that undertakers must supply in the cases of both supervisors and operatives.

132. Subsection (2B) inserted by subsection (3) provides that a notice under subsections (1A) or (2A) may be given at any time while the works are being executed or within such period after their completion as may be prescribed.

133. Subsection (5) amends the existing powers of the Secretary of State to make regulations dealing with the training qualifications issued by approved training bodies. It provides that the regulations may prescribe the form of any document issued by an approved body to certify a qualification.

Section 51: Works following substantial road works

134. Section 51 amends the existing provision restricting street works following substantial road works carried out by the highway authority. Section 58 of NRSWA provides that where a street authority propose to carry out substantial road works in a highway, the street authority may by notice restrict the execution of street works during the twelve months following the completion of the road works.

135. Subsections (2) and (3) amend section 58 so as to provide that the maximum length of a restriction on the execution of street works, and the period of notification of a proposed restriction required to be given by the street authority, are to be prescribed in regulations, rather than being fixed periods in the primary legislation. Subsection (4) amends section 58(3) to enable regulations to prescribe certain descriptions of persons who must be notified of the proposed restriction.

136. Section 58(4) currently provides that a notice restricting the execution of street works ceases to be effective if the road works to which it relates are not substantially begun on or within one month from the date specified in the notice, or in cases where they are in progress on the specified date in the notice (in the part of the highway to which the restriction relates), within one month from the completion of those works. Subsection (5) of this section amends section 58(4) to provide that regulations may prescribe the period after which a notice ceases to be effective (if the works are not substantially begun).

137. Section 58(7) currently provides that the question as to whether the street authority has unreasonably withheld consent to an undertaker to execute works shall be settled by arbitration. Subsection (7) amends section 58(7) to provide that disputes shall be decided in the prescribed manner. Subsection (8) inserts subsection (7A) into section 58, providing that regulations under section 58(7) may make provide for questions to be settled by arbitration or by a person designated by the Secretary of State.

138. Subsection (9) refers to the notices that an undertaker must give an authority before commencing street works, under section 55 of the Act. It provides for different notice periods to be prescribed if the undertaker has been given a notice under section 58(1) relating to restrictions following substantial road works.

Section 52 and Schedule 4: Restriction on works following substantial street works

139. Section 52 inserts a new section 58A into NRSWA, and refers to Schedule 4 of the Act, which inserts a new Schedule 3A into NRSWA. These provisions confer a new power for a street authority to impose a restriction following substantial street works carried out by undertakers. Substantial street works may be prescribed in regulations. It is similar to the corresponding provision in section 58 of NRSWA (restriction on works following substantial road works).

140. Paragraph 1 of Schedule 3A provides that the Schedule applies where an authority receive a notice under sections 54 or 55 of NRSWA from an undertaker notifying them of proposed substantial street works.

141. Paragraph 2 enables a street authority to publish a notice informing undertakers that substantial street works will take place and that they intend to impose a restriction. Regulations may provide for how the notice is to be published and its form and content. This paragraph also lists the various persons who should be given a copy of the notice — those listed under section 58 and any other person of a prescribed description. The published notice requires undertakers to notify the street authority within the period specified in the notice, which may not be less than a period to be prescribed in regulations, if they wish to carry out works. This period is referred to as the “notice period”. Regulations may also prescribe the form of the notice required to be given by undertakers. The notices required to be given by undertakers under section 55 are not required if they have to give this other type of notice.

142. Paragraph 3 sets out the power of the street authority to make directions to the following undertakers once the notice period has expired:

- the undertaker proposing the substantial works;
- undertakers who have given a notice in response to the authorities' notice;
- any other undertakers who have previously given notice of their works.

143. The street authority's directions can be given in respect of the date on which he may begin to execute the works proposed by him. Where an undertaker has received a direction and begins works before the directed date he is guilty of a level 5 offence. Once the notice period specified has expired paragraph 3(4) makes it a level 5 offence for any other undertaker to carry out works before the undertakers directed by the authority. Paragraph 3(5) excludes emergency works and other cases that may be prescribed from the scope of this offence.

144. Paragraph 4 confers a power on the authority to make a direction restricting further works. The direction must be made by the authority after the expiry of the notice period and before the completion of the works carried out as a result of the directions under paragraph 3. The procedure for giving directions and their form and content may be prescribed by regulations. The paragraph also provides that regulations may prescribe the maximum period of the duration of the restriction.

145. Paragraph 5 has the same effect as the provisions in section 58 which provide that certain categories of work may be carried out whilst the restriction is in place. It also provides for regulations to prescribe the process for settling disputes concerning the giving of consent for such works.

146. The remainder of section 52 makes consequential amendments to provisions in NRSWA, so as to provide that the giving by an undertaker of a notice under paragraph 2 of Schedule 3A in relation to street works that they propose to carry out, has similar consequences to the giving of a section 55 notice.

Section 53: Notices requiring remedial works relating to reinstatements

147. At present, sections 72 and 90 of NRSWA provide that where an undertaker carries out works which involve breaking open streets, sewers, drains or tunnels, but fails to reinstate the street properly afterwards, the relevant authority (for instance the street authority) can require them to rectify the failure within a period of not less than 7 working days from the date of the notice. Section 53 amends sections 72 and 90 to replace the 7 day period, and to provide that the minimum period within which the street authority can require the undertaker to rectify the failure (from the date of

the notice) may be prescribed in regulations, and that cases may be prescribed in which no minimum applies.

Section 54: Duty to notify street authority of reinstatement

148. Under section 70(3) of NRSWA the undertaker must inform an authority before the end of the next working day after the day on which the reinstatement is completed, that the reinstatement has been carried out. The reinstatement may be permanent or interim but if interim, it must be made permanent within six months. Section 54 amends the time period for giving the notice required by section 70(3) to provide that the undertaker has up to seven working days from the completion of the reinstatement to notify the authority that the reinstatement has been carried out. The section also enables regulations to require other prescribed information about the reinstatement to be provided. Subsection (3) also inserts a new subsection (4A) into section 70 of NRSWA, which provides that where an undertaker carries out a permanent reinstatement after the interim one he must also give a further notice within seven working days from the date on which the permanent reinstatement was completed, giving such other information about the reinstatement as may be prescribed.

149. The new subsection (4B) inserted by subsection (3) provides that the time period for notifying both permanent and interim reinstatements, and the maximum period for completion of a permanent reinstatement from the time of an interim reinstatement may be modified by regulations.

Section 55: Power of street authority to require undertaker to re-surface street

150. Section 55 inserts new sections 73A, 73B and 73C into NRSWA to enable a street authority, in certain circumstances, to require an undertaker to resurface a street.

151. Section 73A provides for a “re-surfacing notice” to be given by the authority to the undertaker specifying the resurfacing work they require the undertaker to carry out. A re-surfacing notice could be given when an undertaker:

- has given notice under section 54 or 55 of NRSWA, or under paragraph 2(1)(d) of Schedule 3A of that Act, to carry out street works that will involve the breaking up of any part of the street,
- is executing street works which involve the breaking up of any part of the street at the time the notice is given, or
- has previously carried out street works in that street which involved the breaking up of any part of the street (there is provision to prescribe how far back in time this could be applied but any period is permitted unless one is prescribed).

152. The works in respect of which a re-surfacing notice may be given are limited to works carried out from the time of commencement of this section. Undertakers will be subject to the provisions from that time irrespective of whether or not any regulations have been made by the Secretary of State (in England) or the National Assembly for Wales (in Wales), under the accompanying provisions.

153. Section 73A(4) enables a resurfacing notice to relieve the undertaker of some or all of his duties under section 70 of NRSWA with regard to reinstatement of the surface of the street. Regulations may restrict the extent to which the duty may be relieved. Section 73A(5) enables resurfacing notices to be varied or withdrawn.

154. Section 73A(6) provides that a street authority may serve a resurfacing notice notwithstanding that the authority (in any capacity) are under a duty to undertake any of the works specified in the notice.

155. Section 73B deals with the timing of resurfacing works. It enables the authority to specify in a “re-surfacing notice” times, stages and dates for beginning, executing and completing works. Regulations may restrict the use of this power, in some or all cases, including any requirement to consult an undertaker before imposing a restriction.

156. Section 73C provides that the new road surface must conform to any prescribed standards for the materials and workmanship as well as any performance standards for a prescribed period after resurfacing.

Section 56: Re-surfacing: regulations and guidance

157. Section 56 inserts sections 73D and 73E into NRSWA.

158. Section 73D provides for regulations supplementing sections 73A–73C. In particular, these may provide for the following:

- information for resurfacing notices;
- deciding which undertaker should be served with the notice;
- notification of prescribed events by undertakers;
- prescribe circumstances in which an undertaker is entitled to pay a sum to the street authority instead of executing the works specified in a re-surfacing notice, and make provision about the manner in which such sums are to be calculated;
- rights of review or appeal against a notice or any requirement contained in it;
- determination of disputes;
- application of any other provisions in Part 3 of NRSWA or in the Highways Act 1980 to resurfacing works;
- relieving other undertakers of some or all of their duties under section 70 of NRSWA with regard to reinstatement of the surface of the street.

159. Section 73D(4) enables offences to be created by regulations.

160. Section 73E provides for the Secretary of State to issue a code of practice giving practical guidance on the matters in sections 73A–73D and on regulations made under those sections.

Section 57: Contributions to costs of re-surfacing by undertaker

161. Section 57 inserts a new section 78A into NRSWA which deals with the contributions to costs in relation to resurfacing work by undertakers. It provides for street authorities to pay contributions to the undertaker carrying out the resurfacing as well as for contributions from other undertakers who have carried out reinstatements in that part of the street. It also provides for those other undertakers to pay contributions to the street authority if the undertaker served with a re-surfacing notice elects instead to make a payment to the authority, which then carries out the work. In either case, contributions may only be sought from undertakers who carry out works after the commencement of this section. Undertakers will be subject to the provisions from that time, irrespective of whether or not any regulations have been made by the Secretary of State (in England) or the National Assembly for Wales (in Wales) under this section.

162. The section enables regulations to set out:

- how the contributions to the costs of re-surfacing are calculated;

- the method of payment (including provision for the manner of payment and payment by instalments);
- the period from which payments are required to be made;
- how undertakers are to be informed by the street authority that they are required to make a contribution to the costs of re-surfacing;
- the extent to which the street authority is required to make up any contributions that cannot be recovered as a result of the insolvency of an undertaker;
- requirements that disputes of a prescribed description are to be determined in such a manner and by such persons as provided for in the regulations; and
- provisions to deal with cases where an undertaker has already made, or is liable to make, a payment to the authority under section 78 of NRSWA (contributions to making good the cost of long-term damage).

Section 58: Inspection fees

163. Section 58 widens the regulation making powers of the Secretary of State in relation to the setting of fees for the inspection of utilities' works. Section 72(2) of NRSWA provides for the circumstances where a street authority inspects an undertaker's work and finds that the undertaker has failed to carry out his duty to properly reinstate the street. In these circumstances, the undertaker is required to meet the cost of three inspections: a joint inspection with the authority to see what action is needed to remedy the fault, an inspection during the 'remedial' works and another at their completion.

164. Subsection (1) adds new subsections (2A) and (2B) to section 72 of NRSWA, which allow the Secretary of State to prescribe a fee for each of the three types of inspections. If he does so, the undertaker is obliged to pay the prescribed fee rather than the cost of the inspection. The fee may vary according to the nature of the inspection required, how extensive it is, the place where it is carried out, or any other factor that appears relevant to the Secretary of State.

165. Subsection (2) substitutes a new section 75 of NRSWA, widening the scope of the Secretary of State's regulation making power. The new section 75(3) will enable the regulations to differentiate between different descriptions of street authority and undertaker. It also allows for different provision to be made according to their previous performance. Regulations can prescribe how and over what period an undertaker's previous performance would be assessed. The new section 75(5) enables regulations to prescribe the disputes which are required to be settled by arbitration.

Section 59: Guidance about inspections

166. NRSWA provides that an undertaker who carries out street works must pay a street authority a fee in respect of certain inspections of the works. It also provides for a street authority to carry out such investigatory works as appear to them to be necessary to ascertain whether the undertaker has complied with his duties with respect to reinstatement. Section 59 inserts a new section 73F into NRSWA. Section 73F (guidance about street authority inspections) provides for the Secretary of State to issue or approve guidance to street authorities exercising their powers to inspect works. Section 73F(2) provides that an authority must have regard to the guidance in carrying out any such inspections. Section 73F(3) clarifies that guidance on the carrying out of investigatory works may be provided under the umbrella of guidance on inspections generally.

Part 5: Highways and Roads

167. In this Part, the regulation making powers referred to in the Highways Act 1980 are exercised by the Secretary of State (in England), and by the National Assembly for Wales (in Wales). References in this Part to the power to make regulations should be read accordingly.

Section 60: Strategic Roads in London: initial designation by Secretary of State

168. Section 60 provides that the Secretary of State may by order made by statutory instrument designate roads and proposed roads in Greater London as strategic roads, other than roads for which the Secretary of State or Transport for London is the traffic authority. A strategic road is a road in respect of which the powers in section 301A of the Highways Act 1980, and section 121B of the Road Traffic Regulation Act 1984 may be exercised (as those sections are amended by sections 62 and 63).

169. Subsection (2) provides that any road or proposed road so designated shall become a strategic road from the date specified in the order. Subsection (3) provides that no order under the section may be made in respect of a road or proposed road in a London borough if an order under that subsection has been made in respect of any other road or proposed road in that borough. This means that the Secretary of State is able, if he thinks fit, to designate the strategic roads in separate orders for individual boroughs or groups of boroughs, but cannot revisit a designation in relation to a borough.

Section 61: Orders of the Greater London Authority changing what are strategic roads

170. Section 61 enables changes to be made to the network of strategic roads in London. Subsection (1) provides that if the Mayor of London considers it expedient, the Greater London Authority may by order direct that a road or a proposed road should become a strategic road. Subsection (3) provides that an order under subsection (1) will not have effect unless the consent of the council for the London borough in which the road or proposed road is situated is obtained or where it is not obtained the order is confirmed by the Secretary of State. Subsection (4) enables the Greater London Authority by order to direct that a road shall cease to be a strategic road. The Greater London Authority may act through the Mayor of London.

Section 62: London borough councils exercising powers under Highways Act 1980 so as to affect strategic roads

171. Section 62 amends section 301A of the Highways Act 1980. That section currently provides that a London borough council proposing to carry out highway work which will affect or is likely to affect a GLA road or a road in another London borough must notify TfL and, where the road is in another borough, the council of that borough as well. TfL or another borough may object to the borough undertaking the work. Where TfL or another borough objects, the GLA can give consent to the work after consideration of the objection. This section amends section 301A so that its provisions apply to strategic roads as they apply to GLA roads and roads in another London borough.

Section 63: London borough council exercising powers under Road Traffic Regulation Act 1984 so as to affect strategic roads

172. Section 63 amends section 121B of the Road Traffic Regulation Act 1984. That section currently provides that a London borough council proposing to exercise road traffic powers which affect a GLA road or a road in another London borough must notify TfL and, where the road is in another borough, the council of that borough as well. TfL or another borough may object to the borough exercising the power. Where TfL or another borough objects, the GLA can give consent

to the work after consideration of the objection. This section amends section 121B so that its provisions apply to strategic roads as they apply to GLA roads and roads in another London borough.

Section 64 and Schedules 5 and 6: Fixed penalty offences under the Highways Act 1980

173. Section 64 provides for fixed penalties for certain offences under the Highways Act 1980. The potential offences are listed at Schedule 5 to the Act, which inserts a new Schedule 22A to the Highways Act 1980. To be a fixed penalty offence, it must also be prescribed by the Secretary of State in regulations. The regulations may make provision for Greater London different from that in the rest of England. The details of how the system will operate are contained in Schedule 6 to the Act, which inserts a new Schedule 22B into the Highways Act 1980. The new Schedule 22B, among other things, enables regulations to make different provision for different purposes or areas, including with respect to the level of penalty. Section 64 also makes amendments to the London Local Authorities and Transport for London Act 2003. These provide that where London borough councils or Transport for London set the level of penalty for specific fixed penalty offences in the 2003 Act, the Secretary of State can make further regulations increasing the level of those penalties, in cases where the offences are also fixed penalty offences by virtue of this Act.

Section 65: Duty of local highway authority to keep records of objects in highway

174. Section 65 enables the Secretary of State (in England), or the National Assembly for Wales (in Wales), to make regulations imposing a duty upon a local highway authority to make and keep a record of the location of any object of a description prescribed in the regulations which is placed by that authority in the street. The regulations may also make provision as to the form of the records, and supplementary information to be included in the record, and may require a authorities to make their records available for inspection.

Section 66: Builders' skips: charge for occupation of the highway for unreasonable period

175. Sections 139 and 140 of the Highways Act 1980 set out arrangements for controlling the placing and removal of builders' skips in the highway.

176. Section 74 of NRSWA enables the Secretary of State to make regulations imposing a charge on undertakers where street works in a maintainable highway overrun a reasonable period. Section 74 was amended (by section 256 of the Transport Act 2000) so as to widen the regulation making power (in particular as regards the service of notices).

177. Schedule 8 to the NRSWA amended the Highways Act 1980 to insert section 140A of the Highways Act 1980. Section 140A has not been brought into force. Section 140A makes provision for similar arrangements to be made in respect of builders' skips as are provided in respect of street works under section 74 of the NRSWA (prior to its amendment by the Transport Act 2000).

178. Section 66 substitutes a new section 140A into the Highways Act 1980, to provide for a widening of the regulation making powers in respect of builders' skips. The new section 140A is reasonably similar to section 74 of NRSWA as amended by the Transport Act 2000.

179. The new section 140A(1) provides that the Secretary of State may make provision by regulations requiring the owner of a builder's skip deposited on a maintainable highway to pay a charge to the highway authority in cases where the period of the occupation of the highway exceeds such period as may be prescribed by the Secretary of State in regulations and a reasonable period.

180. The new section 140A(2) provides that a reasonable period means a period agreed between the owner of the skip and the authority or, if agreement cannot be reached, a period determined by arbitration.

181. The new section 140A(9) enables regulations made under the inserted section to provide that the authority are to set the rate of charge, up to a prescribed maximum, and that different rates of charge may be set according to such factors as the highway authority considers relevant.

182. The new section 140A(15) enables the regulations to make provision in respect of the application by authorities of the sums paid by way of charges, and for the publication and the keeping of accounts of sums paid by way of charges.

183. The new section 140A(16) provides that the regulations may create a level 4 offence (attracting a maximum fine of £2,500) where the relevant person fails to give a notice, or to provide information, in accordance with the regulations.

184. The new section 140A(17) enables the regulations to prescribe that where a skip is the subject of hiring agreement or hire purchase agreement of a type prescribed in the regulations, it is the person in possession of the skip that is subject to the requirements of the regulations.

185. The new section 140A(18) enables the regulations to make provision in relation to the deposit of a series of skips, rather than just a single one.

186. The new section 140A(19) enables the regulations to provide that such a series of skips may be treated as a single skip (for instance if a skip was deposited and then removed several times as it became full up).

Section 67: Builder's skips: charge determined by reference to duration of occupation of the highway

187. Section 74A of NRSWA enables the Secretary of State to make regulations requiring an undertaker executing street works in a maintainable highway to pay to the highway authority a charge, determined in the prescribed manner by the reference to the duration of the works. The regulations made by the Secretary of State under the power enable highway authorities to impose on undertakers a charge for each day of street works ("lane rental" as it is commonly known). Lane rental powers were piloted in two local highway authority areas, Middlesbrough and Camden.

188. Section 67 confers a power, by regulations, to make provision for "lane rental" in relation to the placing of a skip on a maintainable highway.

Section 68: Scaffolding, building materials and excavations: charge for occupation of the highway for unreasonable period

189. Section 169 of the Highways Act 1980 provides for the control of the erection of scaffolding or similar structures over the highway.

190. Section 171 provides for the control of the placing of builders' material (e.g. bricks) on the highway or the making of temporary excavations in the street.

191. Schedule 8 to the NRSWA amended the Highways Act 1980 to insert section 171A of the Highways Act 1980. Section 171A has not been brought into force. Section 171A makes provision for similar arrangements to be made in respect of the placing of scaffolding, building materials etc. as are made in respect of street works under section 74 of the NRSWA (before section 74 was amended by the Transport Act 2000).

192. Section 68 makes the equivalent substitutions to section 171A of the Highways Act 1980, as section 66 of this Act makes to section 140A of the Highways Act 1980.

Section 69: Scaffolding, building materials and excavations: charge determined by reference to duration of occupation of the highway

193. Section 69 confers the power, by regulations, to make provision for “lane rental” in relation to the placing of scaffolding, building materials etc. on a maintainable highway.

Section 71: Guidance to local highway authorities as to safety precautions

194. Section 65 of NRSWA provides that undertakers operating under NRSWA must ensure, among other things, that their works are adequately signed, guarded and lit. The Secretary of State has exercised his power under that section to issue practical guidance to undertakers as to their responsibilities in this respect. Section 174(1)(a) and (1)(b) of the Highway Act 1980 places similar requirements upon persons executing works in a street (other than persons executing street works). Section 71 inserts a new power into section 174 of the Highways Act 1980 to enable the Secretary of State to issue guidance to persons and highway authorities in respect of these requirements.

Part 6: Civil Enforcement of Traffic Contraventions**Background**

195. Part 6 provides a single framework for the civil enforcement by local authorities of parking and waiting restrictions, bus lane restrictions and some moving traffic offences. This Part, and regulations made under this Part, will, for the most part, replace existing provisions in national and London local legislation. This Part will also enable regulations to be made giving authorities outside London civil enforcement powers to cover some moving traffic offences (such as ignoring the rules at box junctions and banned turns) on the basis of camera evidence or the statement of a civil enforcement officer, and giving additional powers in respect of parking enforcement in areas outside London equivalent to those which already exist in London.

196. Regulation of the movement of traffic on roads is intended to ensure safety and to avoid congestion problems. Regulation also enables specific classes of traffic, such as buses, to be given priority in the allocation of road space. Effective enforcement is required to ensure that the regulation of traffic is effective. Increasingly, because of having to focus on their core responsibilities, the police service is not in a position to give high priority to more minor traffic contraventions, such as parking offences. The notification, adjudication and enforcement of such contraventions by civil (as opposed to criminal) bodies provides an alternative way of dealing with such contraventions.

197. Civil enforcement of traffic regulations by local authorities was first made possible in relation to parking and waiting restrictions under the Road Traffic Act 1991. This resulted in the introduction of decriminalised parking enforcement (DPE) across the whole of London in 1994. Since then over 90 authorities in England and Wales outside London have also been given DPE powers through the designation of their areas as permitted parking and special parking areas under the 1991 Act. Civil enforcement of traffic contraventions has been revised and extended in scope in London through London Local Authority Acts. The London Local Authorities Acts of 1995 and 2000 widened the 1991 Act powers for civil enforcement of parking and waiting restrictions in London. Civil enforcement of bus lanes by London authorities, on the basis of camera evidence of contraventions, was made possible by the London Local Authorities Act 1996. The Transport Act 2000 included powers to enable the appropriate national authority to make regulations to enable the civil enforcement of bus lanes generally across England and Wales. The London Local Authorities and Transport for London Act 2003 includes powers enabling the civil enforcement of certain moving traffic contraventions by London authorities.

Specific provision for Wales and for London

198. The provisions of the Road Traffic Act 1991 which first introduced DPE were first laid before Parliament in a form which applied only to London. Since that Act was passed, London has taken the lead in civil enforcement both in terms of the volume of enforcement and (further to local legislation) in terms of the number and type of contraventions enforceable and the manner of their enforcement. Given the established and integrated mechanisms, functions and procedures in this area which the London boroughs, Transport for London, and the Mayor already have, separate provision for London is made throughout Part 6.

199. In respect of Wales, the Secretary of State's power to make an order establishing an area for DPE under the Road Traffic Act 1991 has been transferred to the National Assembly for Wales; and under the Transport Act 2000, the regulation-making powers establishing the civil enforcement of bus lanes have similarly been conferred on the Assembly. Following this precedent, Part 6 consistently provides for regulation and order making powers to be conferred on the National Assembly for Wales, in respect of Wales.

Section 72: Civil penalties for road traffic contraventions

200. Section 72 enables the appropriate national authority (the Secretary of State in respect of England and the National Assembly for Wales in respect of Wales) to make regulations for the imposition and payment of penalty charges for traffic contraventions that are subject to civil enforcement and which are committed within an area that is designated as a civil enforcement area for the purpose of enforcing those contraventions. The regulations must specify the person or (as is expected will be the case in respect of the London lorry ban) the persons liable for payment of the penalty charge. They must also ensure either that that person (or those persons) will not be exposed to criminal proceedings for an act which is subject to civil enforcement, or that any civil enforcement penalty will be cancelled or refunded if criminal proceedings have been or are instituted. Regulations under this section may specify exemptions from penalty charges, discounts and surcharges. The regulations may require certain penalty charges to be imposed only on the basis of a record produced by an approved device or a statement made by a civil enforcement officer appointed by an enforcement authority.

Section 73 and Schedule 7: Contraventions subject to civil enforcement

201. Section 73 and Parts 1 to 4 of Schedule 7 set out the contraventions which are subject to civil enforcement. These are contraventions of parking and waiting restrictions (Part 1), orders establishing bus lanes (Part 2), specified moving traffic offences (Part 4) and the London lorry ban (Part 3). The appropriate national authority can make regulations adding to the lists of parking contraventions and moving traffic contraventions. Contraventions which would lead to obligatory licence endorsement may not be added to the list of moving traffic contraventions. subsection (4) enables the appropriate national authority to amend Schedule 7 to reflect future changes to secondary legislation in that Schedule.

Section 74 and Schedule 8: Civil enforcement areas

202. Section 74 and Schedule 8 establish (and enable the establishment of) geographical areas in which there will be civil enforcement for one or more classes of contravention that are subject to civil enforcement. These provisions also identify the enforcement authority for such areas. Part 1 of Schedule 8 covers enforcement in London and Part 2 enforcement outside London. All areas where decriminalised parking enforcement has been introduced under the Road Traffic Act 1991 will become civil enforcement areas for parking contraventions.

203. The whole of Greater London will be a civil enforcement area for parking contraventions within paragraph 2 of Schedule 7 (contraventions relating to parking places). The whole of London will also be a civil enforcement area for bus lane contraventions and for London lorry ban contraventions. A London local authority or Transport for London may declare its own area to be a civil enforcement area for moving traffic contraventions, and the Secretary of State may make an order, on the application of a London local authority, designating all or part of that authority's area to be a civil enforcement area for parking contraventions within paragraph 3 of Schedule 7. Outside London the appropriate national authority will be able by order to designate additional local authority areas as civil enforcement areas for enforcement in respect of parking or (in existing civil enforcement areas for parking) bus lane or moving traffic contraventions.

Section 75: Power to require authority to apply for civil enforcement powers

204. Section 75 confers on the appropriate national authority a power to give notice to a local authority outside Greater London requiring the authority to apply under paragraph 8 of Schedule 8 for designation of the whole or part of its area as a civil enforcement area for parking contraventions. Such a notice must be preceded by a notification to the authority and the appropriate chief officer of police that the giving of such a notice is being contemplated to enable them to make representations to the national authority. The national authority must take such representations into account in deciding whether to give a notice to apply. The terms of a notice to apply may subsequently be modified by agreement between the national authority and the local authority.

Section 76: Civil enforcement officers

205. Section 76 enables the appointment of civil enforcement officers by authorities undertaking the civil enforcement of traffic contraventions. It provides that a parking attendant appointed under section 63A of the Road Traffic Regulation Act 1984 is a civil enforcement officer in relation to parking contraventions and may also be appointed as a civil enforcement officer in relation to other road traffic contraventions subject to civil enforcement in the area of the local authority concerned.

Section 77 and Schedule 9: Setting the level of penalty charges

206. Section 77 provides that the level of penalty charges for traffic contraventions (including discounts or surcharges to encourage payment), charges for the removal, storage and disposal of unlawfully parked vehicles, or charges for the release from an immobilisation device shall be set in accordance with the arrangements detailed in Schedule 9. Part 2 of that Schedule provides for charges in London to be set by London local authorities and Transport for London and submitted to the Mayor for his approval. If Transport for London or the London local authorities fail to set the charges, or if the Mayor does not approve the levels of charges set by the London local authorities, the charges are set by the Mayor. The Schedule gives the Secretary of State a reserve power to intervene if he thinks any or all of the charges approved or set by the Mayor are excessive, and it enables him by regulations to set the level of charges. Part 3 of the Schedule provides for charges outside London to be set by each enforcement authority taking account of guidelines set out in an order made by the appropriate national authority.

Section 78: Notification of penalty charges

207. Section 78 enables regulations to be made by the Lord Chancellor for the notification of penalty charges in relation to traffic contraventions subject to civil enforcement. In the case of a parking contravention the regulations may provide for the penalty charge notice to be fixed to the vehicle, given to the person appearing to be in charge of it, or given in some other manner as prescribed, for example by post. Notification of a penalty charge in respect of traffic contraventions involving

moving vehicles may be given in such manner as may be prescribed; however, regulations made under this section may not confer a power to stop vehicles.

208. The regulations may create criminal offences. For example, regulations are expected to create an offence of unauthorised interference with a penalty charge notice fixed to a vehicle, which is expected will be punishable by a fine not exceeding level 2 on the standard scale (i.e. a maximum fine of £500). The regulations are also expected to enable a local authority to require by notice an operator of goods vehicles to provide the name and address of the person whose driving contravened the London lorry ban (thus replicating the effect of section 5 of the London Local Authorities and Transport for London Act 2003). It is expected the regulations will make the giving of false information in respect of such a notice to be punishable by a fine not exceeding level 5 on the standard scale (i.e. a maximum fine of £5,000).

Section 79: Immobilisation of vehicle where penalty charge is payable

209. Immobilisation of vehicles using wheel clamps is an additional measure used by some enforcement authorities to deter illegal parking. Section 79 provides for regulations to be made for or in connection with the immobilisation of unlawfully parked vehicles, and with the release of such vehicles on payment of the penalty charge imposed for it being unlawfully parked, a release fee, and any unpaid penalty charges previously incurred by the vehicle. The regulations may provide for a notice to be fixed to the vehicle warning that it has been immobilised, and explaining both how to secure its release and that the notice should not be interfered with except under the authority of the owner or person in charge of the vehicle or the enforcement authority. Regulations may also provide that a vehicle may only be released under the direction of a person authorised by the enforcement authority and that any unauthorised attempt to release a vehicle shall be an offence punishable by a fine not exceeding level 3 on the standard scale (i.e. a maximum of £1,000).

210. The regulations must provide that a vehicle in a parking place shall not be immobilised for a failure to pay a parking charge, to display a ticket showing that a charge has been paid or to remove a vehicle at the end of a period of paid for parking until 15 minutes after the issue of a penalty charge notice. The regulations shall also provide that a vehicle must not be immobilised if it displays a disabled person's badge (a "blue badge"). However, the regulations will make it an offence, punishable by a fine not exceeding level 3 on the standard scale, if a person inappropriately uses a blue badge and as a result the vehicle in question is not immobilised.

Section 80: Representations and appeals

211. Section 80 enables regulations to be made entitling a person liable for payment of a penalty charge or who secures the release of a vehicle from an immobilisation device to make representations to the enforcement authority and to appeal to an independent adjudicator if his representations are not accepted. The regulations may require these rights to be notified to the appropriate person when a penalty charge is issued or when the vehicle concerned is released from an immobilisation device. The regulations may make provision in relation to representations and appeals, including as to the circumstances in which there is a right of appeal to an adjudicator. By virtue of subsection (3), regulations may provide grounds for appeal in respect of which an adjudicator's function will be to consider whether to direct an enforcement authority to consider or reconsider representations.

212. The regulations may make it an offence not to attend a hearing before an adjudicator or to fail to provide certain documents, and these offences will be punishable by a fine not exceeding level 2 on the standard scale (i.e. a maximum of £500). Similarly, the regulations may make it an offence to deliberately or recklessly make false representations in respect of penalty charges, which offence

will be punishable by a fine not exceeding level 5 on the standard scale (i.e. a maximum of £5,000). Regulations may authorise an adjudicator to award costs against a party to an adjudication in such circumstances as may be specified. Regulations under this section require approval by a resolution of each House of Parliament, further to subsection (5) of section 89.

Section 81: Adjudicators

213. The European Convention on Human Rights (as incorporated in domestic law by the Human Rights Act 1998) requires adjudication of a penalty charge to be by an independent and impartial tribunal. Section 81 enables the Lord Chancellor to make regulations to provide for the appointment of adjudicators to hear appeals by persons who are or may be liable to pay penalty charges for traffic contraventions. It specifies the legal qualifications of adjudicators and limits the grounds for removal from office of an adjudicator. The regulations will provide for the consent of the Lord Chancellor to be obtained prior to the appointment, re-appointment or removal from office of an adjudicator. Enforcement authorities will be responsible for providing accommodation and administrative support for adjudicators, and setting their terms of work and for their remuneration. Adjudicators will be required by regulations to make an annual report to the enforcement authorities and those authorities in turn will be required to make an annual report to the appropriate national authority on the discharge by the adjudicators of their functions.

214. The regulations relating to the appointment of adjudicators may make transitional provisions treating adjudicators already appointed for the purpose of hearing appeals, in the case of parking under section 73 of the Road Traffic Act 1991 or in the case of bus lane contraventions under section 144 of the Transport Act 2000, as if they had been appointed under the Act. Such regulations may also continue in force existing arrangements for their accommodation, administrative support and fees. In practice this will mean adjudication continuing to be undertaken by bodies corresponding to the London Parking and Traffic Appeals Service, in London, and the National Parking Adjudication Service, outside London. Both were originally constituted as adjudication bodies for the purpose of decriminalised parking enforcement.

Section 82: Enforcement of penalty charges

215. It is necessary to have the ability to enforce payment of penalty charges and section 82 enables regulations to be made by the Lord Chancellor for this purpose. The first step to induce payment will be the imposition of a surcharge on the original penalty. If this does not secure payment then an enforcement model (which is expected substantially to replicate by regulations the procedure under the Road Traffic Act 1991) will be followed. The procedure is for unpaid penalty charges to be registered at the Traffic Enforcement Centre (TEC) — part of the Northampton County Court — and enforced as a county court debt if the TEC so orders. The regulations are expected to provide that if no payment is made, and no statutory declaration disclaiming responsibility is received, the enforcement authority may seek to enforce payment by execution by a certificated bailiff.

216. The regulations may create an offence, punishable by a fine not exceeding level 5 on the standard scale (i.e. a maximum of £5,000), and it is expected that regulations will create an offence of making a false statutory declaration to avoid enforcement. Provision is made for continuing in force existing provisions in respect of parking fines incurred under the 1991 Act and regulations in connection with the execution of warrants of execution by bailiffs.

Section 83: Certificated bailiffs

217. Section 83 re-enacts in substance the provisions of section 78 of the Road Traffic Act 1991. It provides for the Lord Chancellor to make regulations which will control the certification of

bailiffs and the execution of warrants by bailiffs. Regulations in respect of bailiffs currently in existence by virtue of section 78 will continue in force under this section.

Section 84 and Schedule 10: Designation of special enforcement areas

218. Section 84 and Schedule 10, paragraph 1, enable the Secretary of State, on the application of a London local authority or Transport for London to designate the whole or part of its area as a special enforcement area (SEA) provided it is within or co-extensive with a civil enforcement area for parking contraventions designated under paragraph 2 of Schedule 8. An order made by the Secretary of State designating a special parking area in London under section 76 of the Road Traffic Act 1991 will have effect as an order made under Schedule 10 designating the area as a SEA. However, the nature of any such area will change to become an area in which forms of conduct are specified as contraventions peculiar to that area (as per the approach of the 1991 Act) but (unlike the approach of the 1991 Act) not an area in which, by definition, there will be civil enforcement of those or other contraventions.

219. Paragraph 2 of Schedule 10 preserves the ability of the Mayor of London under section 76A of the Road Traffic Act 1991 to vary an order designating a SEA with the consent of the relevant London authority for every road that may be added or removed from the area. The relevant London authority is, as regards GLA roads, Transport for London, and as regards roads other than GLA roads, the London local authority in whose area the road is situated. Orders made by the Mayor under section 76A(1) or (3)(a) of the Road Traffic Act 1991 prior to the coming into force of this Section shall have effect as if made under paragraph 2 of Schedule 10.

220. Paragraph 3 of Schedule 10 enables the appropriate national authority to designate SEAs outside Greater London on the application of an authority specified in paragraph 3(3). An order designating a special parking area outside Greater London made under paragraph 2(1) of Schedule 3 to the Road Traffic Act 1991 will continue to have effect as an order made under paragraph 3 of Schedule 10 designating the area as an SEA.

Section 85: Prohibition of double parking etc.

221. Parking a vehicle adjacent to another parked vehicle or at some distance away from the kerbside has the potential to obstruct the flow of other traffic. Within an SEA, section 85 makes parking a vehicle such that no part of it is within 50 centimetres of the edge of the carriageway a traffic contravention for which a penalty charge may be issued. A number of exceptions are set out in subsections (2) to (5), e.g. for the emergency services and for loading and unloading in certain circumstances. There is no contravention if, for example, a vehicle is prevented from proceeding due to circumstances beyond the driver's control.

Section 86: Prohibition of parking at dropped footways etc.

222. Dropping the level of a footway, cycle track or verge to the level of the carriageway assists pedestrians crossing a road, cyclists entering or leaving the carriageway and vehicles crossing a footway, cycle track or verge in order to access off-road parking. Raising the level of the carriageway to meet the level of a footway, cycle track or verge similarly provides such assistance. Section 86 makes it a contravention for which a penalty charge may be issued to park a vehicle within a SEA and adjacent to either a dropped footway, cycle track or verge, or where the carriageway is raised to assist pedestrians, cyclists or vehicles. A number of exceptions are set out in subsections (2) to (6), e.g. for the emergency services and for loading and unloading in certain circumstances. There is no contravention if, for example, a vehicle is prevented from proceeding due to circumstances beyond the control of the driver.

Section 87: Guidance to local authorities

223. Section 87 enables the appropriate national authority to publish guidance to local authorities about any matter relating to the civil traffic enforcement functions which may be conferred on them by Part 6. In exercising those functions authorities must have regard to any such guidance.

Section 88: Financial provisions

224. Section 88 provides for regulations to be made for the keeping of accounts in respect of the income and expenditure from each form of civil enforcement. Section 55 of the Road Traffic Regulation Act 1984 (which is amended by section 95 of this Act) provides for how surpluses generated in respect of parking charges may be applied.

Section 90: Application to Crown and visiting forces

225. Section 90 provides that Part 6 does not apply to vehicles being used for national naval, military or airforce purposes or vehicles similarly being used by visiting forces, but that they do apply to registered vehicles being used in the public service of the Crown and vehicles driven by persons in the public service of the Crown. Part 6 does not enable civil enforcement of traffic contraventions on Crown roads unless an order to that effect has been made. Section 131 of the Road Traffic Regulation Act 1984 enables the Secretary of State, with the consent of the appropriate Crown authority, to direct by order that a road traffic enactment (which definition includes the Traffic Management Act) shall apply to Crown roads.

Section 91 and Schedule 11: Consequential amendments

226. Regulations under Part 6 will replace existing provisions contained in the Road Traffic Act 1991, the Transport Act 2000 and various London Local Authorities Acts. Section 91 and Schedule 11 to the Act make consequential amendments to existing legislation.

Part 7: Miscellaneous and General**Section 94: Power to inspect blue badges**

227. Section 94 amends section 21 of the Chronically Sick and Disabled Persons Act 1970 which established the disabled persons parking badge scheme (“the Blue Badge Scheme”). The scheme provides certain parking concessions for disabled people. The effect of the provisions introduced by section 94 is that police, traffic wardens, local authority parking attendants and civil enforcement officers will have the power to require blue badges issued under the scheme to be produced for inspection. Apart from the police, these bodies only have this power when carrying out their other parking enforcement functions.

228. Section 94 requires anyone in the vehicle, or anyone who appears to the enforcement officer to have been, or to be about to get into a vehicle displaying a disabled person's parking badge, to produce it for inspection. It creates an offence of failing without reasonable excuse to produce a badge when required to do so by any of the authorised persons. On conviction the offence is punishable by a fine not exceeding level 3 (£1,000) on the standard scale.

Section 95: Application of surplus income from parking places

229. Use of surplus income from parking charges and penalty charges is governed by section 55 of the Road Traffic Regulation Act 1984. Once the need for provision of off-street parking facilities and to make good deficits to central funding has been met, use of surpluses is currently confined

to the provision of public transport services or to road improvements. Section 95 amends section 55 to add to that list the additional purpose of using surplus income to fund local environmental improvements. “Environmental improvement” is defined in a broad sense to encompass recreational or scenic improvements. It also amends section 55 to enable the appropriate national authority to make regulations specifying classes or descriptions of authorities, or particular authorities (for example those which may be designated under section 99 of the Local Government Act 2003 as high-performing authorities), as having complete freedom in the way they spend surplus parking income once the needs of parking provision have been considered.

Section 96: Wales

230. Section 96 provides that references in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999, to the Highways Act 1980, the Road Traffic Regulation Act 1984 and the New Roads and Street Works Act 1991, are to be read as references to those Acts as amended by the Act. The Order provides for the transfer of the certain functions to the National Assembly for Wales.

Section 97: Financial provision

231. Section 97 makes provision for money to be provided by Parliament to meet costs attributable to the Act. Subsection (1)(a) provides statutory authority for the costs of setting up the traffic officer service and establishing regional control centres and traffic information systems.

Section 98 and Schedule 12: Repeals

232. Section 98 and Schedule 12 provide for repeals of existing legislation. Those repeals in Part 1 of Schedule 12 will be consequent on the making of regulations under Part 6 of the Act.

Section 99: Commencement

233. Section 99 provides for the Secretary of State (in England) or the National Assembly for Wales (in Wales) to commence the provisions in this Act by order, providing for different provisions to be commenced on different dates and for Part 6 and related appeals to be commenced on different dates for different areas (e.g. London as opposed to the rest of England). The section also provides that the Secretary of State (in England) or the National Assembly for Wales (in Wales), may by order make transitional provision or savings in connection with the coming into force of any provisions in this Act.

HANSARD REFERENCES

234. The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	Date	Hansard references
<i>HOUSE OF COMMONS</i>		
Introduction	11 December 2003	Vol 415 Col 1224
Second Reading	5 January 2004	Vol 416 Col 35–129
Committee	27 January 2004	Hansard Standing Committee A
	29 January 2004	
	3 February 2004	
	5 February 2004	

Stage	Date	Hansard references
	10 February 2004	
Report and Third Reading	16 March 2004	Vol 419 Col 175–264
<i>HOUSE OF LORDS</i>		
First Reading	17 March 2004	Vol 659 Col 272
Second Reading	1 April 2004	Vol 659 Col 1530–1562
Grand Committee	22 April 2004 27 April 2004 29 April 2004 4 May 2004	Vol 660 Col GC 1–GC 58 Vol 660 Col GC 59–GC 120 Vol 660 Col GC121–GC 178 Vol 660 Col GC 179–GC 236
Report	29 June 2004	Vol 663 Col 139–209
Third Reading	8 July 2004	Vol 663 Col 946–988
<i>HOUSE OF COMMONS</i>		
Commons Consideration of Lords Amendments	15 July 2004	Vol 423 Col 1580–1632
<i>HOUSE OF LORDS</i>		
Lords Consideration of Commons Reasons and Amendments	20 July 2004	Vol 664 Col 127–135
Royal Assent — 22 July 2004	House of Lords Hansard Vol 664 Col 333 House of Commons Hansard Vol 424 Col 514	

Modifications

Provision	Modification	Notes	Further Information
Pt 6 s. 89(1)	Road Traffic Regulation Act 1984 c. 27, Pt VIII s. 101B	Modified in relation to regulations under 1984 c.27 s.101B	
Pt 6 s. 89(2)	Road Traffic Regulation Act 1984 c. 27, Pt VIII s. 101B	Modified in relation to regulations under 1984 c.27 s.101B	
Pt 6 s. 89(3)	Road Traffic Regulation Act 1984 c. 27, Pt VIII s. 101B	Modified in relation to regulations under 1984 c.27 s.101B	
Sch. 7(4) para. 8(2)	London Olympic Games and Paralympic Games Act 2006 c. 12, s. 15		
Sch. 9	London Olympic Games and Paralympic Games Act 2006 c. 12, s. 15(3)		
Sch. 9(2)	London Olympic Games and Paralympic Games Act 2006 c. 12, s. 15		
	London Olympic Games and Paralympic Games Act 2006 c. 12, s. 15A		
	London Olympic Games and Paralympic Games Act 2006 c. 12, s. 16		
Sch. 9(3)	London Olympic Games and Paralympic Games Act 2006 c. 12, s. 15		
	London Olympic Games and Paralympic Games Act 2006 c. 12, s. 15A		
	London Olympic Games and Paralympic Games Act 2006 c. 12, s. 16		

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