

Status: Point in time view as at 28/05/2005.

Changes to legislation: There are currently no known outstanding effects for the Local Government Act 1985, Part II. (See end of Document for details)

SCHEDULES

SCHEDULE 5

ROAD TRAFFIC

^{F1}PART II

SUPPLEMENTARY PROVISIONS RELATING TO ROAD TRAFFIC

Textual Amendments

- F1** Sch. 5 Pt. II repealed (so far as relating to Greater London) (3.7.2000) by 1999 c. 29, ss. 294(1)(c), 423, Sch. 34 Pt. VI (with s. 294(2)-(8), Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, Sch. Pt. III

Designation of roads in Greater London

^{F2}5

Textual Amendments

- F2** Sch. 5 para. 5 repealed (3.7.2000) by 1999 c. 29, ss. 294(1)(c), 423, Sch. 34 Pt. VI (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, Sch. Pt. III

Guidance as to exercise of traffic powers in Greater London and metropolitan counties

- 6 (1) For the purpose of ensuring that the exercise by a council in [^{F3}Greater London or] a metropolitan county of the traffic powers specified below in relation to councils of its class does not have an adverse effect on traffic or any class of traffic or parking places or any class of parking place in any part of ^{F3}. . . that county, other than the area of that council, the Secretary of State may issue guidance as to the manner in which, in relation to roads [^{F4}other than those for which he is the traffic authority]—
- ^{F5}(a)
- (b) the councils of metropolitan districts should exercise their powers to make, vary or revoke orders under or by virtue of sections 1, 9, 19, 32, 35, 37, 38, 45, 46, 49(2) and (4), 53, 83(2) and 84 of that Act.
- (2) Before issuing any such guidance the Secretary of State shall consult—
- (a) the chief officers of police for the areas to which the guidance relates; [^{F6}and]
- ^{F6}(b)
- (3) ^{F7}. . . the council of a metropolitan district shall, before exercising any power specified in sub-paragraph (1)(b) above—
- (a) have regard to any guidance issued to it under this paragraph;

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- (b) have regard to any direct effect which the proposed exercise would have on traffic or any class of traffic—
 - (i) on a ^{F8}road for which the Secretary of State is the traffic authority];
 - or
 - (ii) on any other road in the area of another local authority;
 - (c) if the proposed exercise would have such an effect, consult the Secretary of State in the case of a ^{F9}road for which he is the traffic authority], or the other local authority in the case of any other road; and
 - (d) comply with procedures prescribed by regulations made by the Secretary of State.
- (4) Where the council of a ^{F10}. . . metropolitan district takes any action which, in the opinion of the Secretary of State—
- (a) is contrary to any guidance issued to the council under this paragraph; and
 - (b) has or is likely to have an adverse effect on traffic or any class of traffic or parking places or any class of parking place in any part of ^{F10}. . . that county, other than the area of that council,
- the Secretary of State may, after consulting the council, direct it to take such steps within a period specified by him as may be necessary to conform with that guidance.
- (5) If, in the opinion of the Secretary of State, a council fails to comply with a direction under sub-paragraph (4) above, he may exercise any of its powers for the purpose of giving effect to the direction; and any expenses reasonably incurred by him in doing so shall be recoverable by him from the council ^{F11}as a debt due to the Crown].
- (6) Where, in the opinion of the Secretary of State—
- (a) the council of a ^{F12}. . . metropolitan district fails to act in accordance with any guidance issued to it under this paragraph; and
 - (b) that failure has or is likely to have such an adverse effect as is mentioned in sub-paragraph (4)(b) above,
- the Secretary of State, after consulting the council, may exercise any of its powers for the purpose of conforming with that guidance; and any expenses reasonably incurred by him in doing so (including any expenses reasonably incurred in maintaining any traffic signs placed, or in continuing or maintaining any works commenced, by virtue of this sub-paragraph) shall be recoverable by him from the council summarily as a civil debt.

^{F13}(7)

Textual Amendments	
F3	Words in Sch. 5 para. 6(1) repealed (3.7.2000) by 1999 c. 29, ss. 294(1)(c), 423, Sch. 34 Pt. VI (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, Sch. Pt. III
F4	Words in Sch. 5 para. 6(1) substituted (1.11.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), Sch. 8, Pt. IV, para. 116(2); S.I. 1991/2288, art. 3, Sch.
F5	Sch. 5 para. 6(1)(a) repealed (3.7.2000) by 1999 c. 29, ss. 294(1)(c), 423, Sch. 34 Pt. VI (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, Sch. Pt. III
F6	Sch. 5 para. 6(2)(b) and the word “and” immediately preceding it repealed (3.7.2000) by 1999 c. 29, ss. 294(1)(c), 423, Sch. 34 Pt. VI (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, Sch. Pt. III
F7	Words in Sch. 5 para. 6(3) repealed (3.7.2000) by 1999 c. 29, ss. 294(1)(c), 423, Sch. 34 Pt. VI (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, Sch Pt. III

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- F8** Words in Sch. 5 para. 6(3)(b)(i) substituted (1.11.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8, Pt. IV**, para. 116(3)(a); S.I. 1991/2288, art. 3, **Sch.**
- F9** Words in Sch. 5 para. 6(3)(c) substituted (1.11.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8, Pt. IV**, para. 116 (3)(b); S.I. 1991/2288, art. 3, **Sch.**
- F10** Words in Sch. 5 para. 6(4) repealed (3.7.2000) by 1999 c. 29, ss. 294(1)(c), 423, **Sch. 34 Pt. VI** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, **Sch. Pt. III**
- F11** Words in Sch. 5 para. 6(5) substituted (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 81, **Sch. 7 para. 9(2)** (with s. 79(1)); S.I. 1991/2054, art. 3, **Sch.**
- F12** Words in Sch. 5 para. 6(6)(a) repealed (3.7.2000) by 1999 c. 29, ss. 294(1)(c), 423, **Sch. 34 Pt. VI** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, **Sch. Pt. III**
- F13** Sch. 5 para. 6(7) repealed (3.7.2000) by 1999 c. 29, ss. 294(1)(c), 423, **Sch. 34 Pt. VI** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, **Sch. Pt. III**

Procedures and objections

- 7 (1) The power of the Secretary of State to make regulations under paragraph 21 or 23 of Schedule 9 to the 1984 Act (procedure as to certain orders) shall include power to make regulations for the purpose of sub-paragraph (3) of paragraph 6 above; and any such regulations for that purpose shall include provision by which a local authority required to be consulted under that sub-paragraph in connection with a proposed exercise of power may object to that exercise.
- (2) Where such a local authority objects in accordance with regulations under the said paragraph 21 or 23 to a proposed exercise of power by the council of a ^{F14} . . . metropolitan district, that council shall notify the Secretary of State of its proposal and of the objection, unless either of them is withdrawn, and shall give him such particulars of them as he may require.
- (3) Upon receipt of a notification under sub-paragraph (2) above, the Secretary of State shall determine whether the proposal in question should be abandoned or implemented, with or without modifications; and the council making the proposal shall comply with any such determination.
- (4) To assist him in making a determination the Secretary of State may consult such persons or bodies as he thinks fit and may hold an inquiry; and the provisions of section 129(1) to (3) of the 1984 Act shall apply in relation to an inquiry held under this paragraph as they apply to an inquiry held under that Act.

Textual Amendments

- F14** Words in Sch. 5 para. 7(2) repealed (3.7.2000) by 1999 c. 29, ss. 294(1)(c), 423, **Sch. 34 Pt. VI** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, **Sch. Pt. III**

Application of Part VI of Schedule 9 to the 1984 Act

- 8 Part VI of Schedule 9 to the 1984 Act (validity of certain orders) shall apply to an order made by the Secretary of State by virtue of paragraph 6(5) or (6) above and falling within paragraph 34(1) of that Part as it applies to an order made by him by virtue of paragraph 3 of Part I of that Schedule.

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Supplementary

- 9 In exercising any power under or by virtue of paragraph 6 or 7 above in relation to a council the Secretary of State shall have regard to the duty of that council under section 122 of the 1984 Act; and in the event of any conflict between that duty and any provision of those paragraphs, that provision shall prevail.

Reserve powers of the Secretary of State as to traffic control systems in Greater London and metropolitan counties

- 10 (1) Where the Secretary of State is not satisfied in the case of^{F15} . . . a metropolitan county that all the local authorities in that area have made joint arrangements for the exercise of such of their functions under Part V of the 1984 Act as are necessary to secure the control, management, development and extension of any system of traffic control which relates to two or more of those authorities, he may make an order under this paragraph.
- (2) An order under this paragraph may transfer to the Secretary of State such functions of the local authorities in question under that Part of that Act as he considers necessary to enable him to secure the control, management, development and extension of that system.
- (3) The Secretary of State may delegate, with or without restrictions, the exercise of any function transferred to him under this paragraph to the local authority from which it was transferred.
- (4) Before exercising any function transferred to him under this paragraph, the Secretary of State shall consult any local authority appearing to him to be likely to be affected unless it appears to him that the exercise of the function will only have a temporary effect on the system of traffic control in question; and any local authority from which a function has been so transferred shall consult the Secretary of State before exercising any function under the 1984 Act in any manner which may affect the exercise by the Secretary of State of any function so transferred.
- (5) Any expenses reasonably incurred by the Secretary of State in exercising the functions transferred by an order under this paragraph may be recovered by him from the local authorities from which the functions were transferred in such proportions as may be agreed between the local authorities or, in default of agreement, as may be determined by him.
- (6) A sum recoverable by the Secretary of State under sub-paragraph (5) above may be recovered by him [^{F16}as a debt due to the Crown].
- (7) The Secretary of State shall revoke an order made under this paragraph in relation to a system of traffic control in operation in^{F15} . . . a metropolitan county if at any time he is satisfied that all the local authorities in that area have made joint arrangements for the exercise of such of their functions under Part V of the 1984 Act as are necessary to secure the control, management, development and extension of the system.
- (8) An order under this paragraph may contain such supplementary and transitional provisions as the Secretary of State thinks necessary or expedient, including provisions for the transfer of property, staff, rights and liabilities and provision amending any enactment or any instrument made under any enactment.

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Textual Amendments

- F15** Words in Sch. 5 para. 10(1)(7) repealed (3.7.2000) by 1999 c. 29, ss. 294(1)(c), 423, Sch. 34 Pt. VI (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, Sch. Pt. III
- F16** Words in Sch. 5 para. 10(6) substituted (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 81, Sch. 7 para. 10 (with s. 79(1)); S.I. 1991/2054, art. 3, Sch.

Information

- 11 The council of a ^{F17}. . . metropolitan district shall furnish the Secretary of State with such information as he may request for the purpose of exercising his powers under paragraphs 6(4), (5) and (6) and 10 above; and if any such information is not furnished by the council within a time specified by the Secretary of State, he may take such steps as he considers necessary or expedient to obtain the information himself and may recover from the council [^{F18}as a debt due to the Crown] any expenses reasonably incurred by him in doing so.

Textual Amendments

- F17** Words in Sch. 5 para. 11 repealed (3.7.2000) by 1999 c. 29, ss. 294(1)(c), 423, Sch. 34 Pt. VI (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, Sch. Pt. III
- F18** Words in Sch. 5 para. 11 substituted (1.10.1991) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 81, Sch. 7 para. 11 (with s. 79(1)); S.I. 1991/2054, art. 3, Sch.

Transitional provisions concerning certain orders under the 1984 Act

- 12 (1) After the passing of this Act a metropolitan county council ^{F19}. . . shall obtain the consent of the Secretary of State before making any order to which this paragraph applies if an objection to the council's proposal to make the order has been duly made by a successor authority (whether before or after the passing of this Act) and has not been withdrawn; and for the purposes of this provision an objection is not duly made unless it is made in accordance with regulations made or having effect as if made under paragraph 21 or, as the case may be, 23 of Schedule 9 to the 1984 Act.
- (2) The orders to which this paragraph applies are—
- (a) in the case of a metropolitan county council those made under or by virtue of section 1, 9, 19, 32, 35, 37, 38, 45, 46, 49(2) or (4), 53, 83(2) or 84 of the 1984 Act; [^{F20}and]
- ^{F20}(b)
- (3) In this paragraph “successor authority” means—
- ^{F21}(a)
- (b) in relation to a metropolitan county council, the council of a metropolitan district to which the order relates.
- (4) In relation to any order to which Part VI of Schedule 9 to the 1984 Act (validity of orders) applies the requirements of this paragraph shall be included amongst the requirements which are the relevant requirements for the purposes of that Part.

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Textual Amendments

- F19** Words in Sch. 5 para. 12(1) repealed (3.7.2000) by 1999 c. 29, ss. 294(1)(c), 423, **Sch. 34 Pt. VI** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, **Sch. Pt. III**
- F20** Sch. 5 para. 12(2)(b) and the word “and” immediately preceding it repealed (3.7.2000) by 1999 c. 29, ss. 294(1)(c), 423, **Sch. 34 Pt. VI** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, **Sch. Pt. III**
- F21** Sch. 5 para. 12(3)(a) repealed (3.7.2000) by 1999 c. 29, ss. 294(1)(c), 423 Sch. 34 Pt. VI (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, **Sch. Pt. III**

Interpretation

- 13 In this Part of this Schedule—
- (a) “the 1984 Act” means the ^{M1}Road Traffic Regulation Act 1984;
 - (b) “parking place”, “traffic sign” and “road” have the meanings assigned to them respectively by sections 32(4)(b), 64(1) and 142(1) of the 1984 Act;
 - (c) “local authority” means the council of a metropolitan district ^{F22} . . . ; ^{F23} . . .
 - ^{F23}(d)

Textual Amendments

- F22** Words in Sch. 5 para. 13(c) repealed (3.7.2000) by 1999 c. 29, ss. 294(1)(c), 423, **Sch. 34 Pt. VI** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, **Sch. Pt. III**
- F23** Sch. 5 para. 13(d) and the word “and” immediately preceding it repealed (3.7.2000) by 1999 c. 29, ss. 294(1)(c), 423, **Sch. 34 Pt. VI** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, **Sch. Pt. III**

Marginal Citations

- M1** 1984 c. 27.

Commencement

- 14 Any power conferred on the Secretary of State by this Schedule may be exercised at any time after the passing of this Act so as to take effect on or after the abolition date.

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