



# Road Traffic Act 1988

## 1988 CHAPTER 52

### PART I

#### PRINCIPAL ROAD SAFETY PROVISIONS

##### *Promotion of road safety*

#### **38 The Highway Code.**

- (1) The Highway Code shall continue to have effect, subject however to revision in accordance with the following provisions of this section.
- (2) Subject to the following provisions of this section, the Secretary of State may from time to time revise the Highway Code by revoking, varying, amending or adding to the provisions of the Code in such manner as he thinks fit.
- (3) Where the Secretary of State proposes to revise the Highway Code by making any alterations in the provisions of the Code (other than alterations merely consequential on the passing, amendment or repeal of any statutory provision) he must lay the proposed alterations before both Houses of Parliament and must not make the proposed revision until after the end of a period of forty days beginning with the day on which the alterations were so laid.
- (4) If within the period mentioned in subsection (3) above either House resolves that the proposed alterations be not made, the Secretary of State must not make the proposed revision (but without prejudice to the laying before Parliament of further proposals for alteration in accordance with that subsection).
- (5) Before revising the Highway Code by making any alterations in its provisions which are required by subsection (3) above to be laid before Parliament, the Secretary of State must consult with such representative organisations as he thinks fit.
- (6) The Secretary of State must cause the Highway Code to be printed and may cause copies of it to be sold to the public at such price as he may determine.

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- (7) A failure on the part of a person to observe a provision of the Highway Code shall not of itself render that person liable to criminal proceedings of any kind but any such failure may in any proceedings (whether civil or criminal, and including proceedings for an offence under the Traffic Acts, the <sup>M1</sup>Public Passenger Vehicles Act 1981 or sections 18 to 23 of the <sup>M2</sup>Transport Act 1985) be relied upon by any party to the proceedings as tending to establish or negative any liability which is in question in those proceedings.
- (8) In this section “the Highway Code” means the code comprising directions for the guidance of persons using roads issued under section 45 of the <sup>M3</sup>Road Traffic Act 1930, as from time to time revised under this section or under any previous enactment.
- (9) For the purposes of subsection (3) above—
- (a) “statutory provision” means a provision contained in an Act or in subordinate legislation within the meaning of the <sup>M4</sup>Interpretation Act 1978 (and the reference to the passing or repeal of any such provision accordingly includes the making or revocation of any such provision),
  - (b) where the proposed alterations are laid before each House of Parliament on different days, the later day shall be taken to be the day on which they were laid before both Houses, and
  - (c) in reckoning any period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

#### Marginal Citations

- M1** 1981 c. 14.  
**M2** 1985 c. 67.  
**M3** 1930 c. 43.  
**M4** 1978 c. 30.

### 39 Powers of Secretary of State and local authorities as to giving road safety information and training.

- (1) The Secretary of State may, with the approval of the Treasury, provide for promoting road safety by disseminating information or advice relating to the use of roads.
- [<sup>F1</sup>(2) Each relevant authority—
- (a) if it is a local authority, must prepare and carry out a programme of measures designed to promote road safety, or
  - (b) if it is Transport for London, may prepare and carry out such a programme, and may contribute towards the cost of measures for promoting road safety taken by other authorities or bodies.]
- (3) [<sup>F2</sup>Each relevant authority—]
- (a) must carry out studies into accidents arising out of the use of vehicles
    - [<sup>F3</sup>(i) if it is a local authority,] on roads or parts of roads, other than [<sup>F4</sup>GLA roads or][<sup>F5</sup>roads for which the Secretary of state is highway authority (in Scotland, roads authority)] within their area [<sup>F6</sup>or
    - (ii) if it is Transport for London, on GLA roads or parts of GLA roads,]

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- (b) must, in the light of those studies, take such measures as appear to the authority to be appropriate to prevent such accidents, including the dissemination of information and advice relating to the use of roads, the giving of practical training to road users or any class or description of road users, the construction, improvement, maintenance or repair of [<sup>F7</sup>roads for the maintenance of which they are responsible] and other measures taken in the exercise of their powers for controlling, protecting or assisting the movement of traffic on roads, and
- (c) in constructing new roads, must take such measures as appear to the authority to be appropriate to reduce the possibilities of such accidents when the roads come into use.

[(3A) The duties imposed by subsection (3) above are without prejudice to the generality of subsection (2) above and—

- (a) in the case of a local authority, are to be discharged in pursuance of their duty under subsection (2)(a) above; and
- (b) in the case of Transport for London, are to be discharged by exercising their powers under subsection (2)(b) above.]

(4) In this section

[<sup>F8</sup>“GLA road” has the same meaning as in the <sup>M5</sup>Highways Act 1980 (see sections 329(1) and 14D(1) of that Act);]

“local authority” means—

- (a) in relation to England and Wales, the council of a county, metropolitan district or London borough or the Common Council of the City of London,
- (b) in relation to Scotland, a [<sup>F9</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994].

[<sup>F10</sup>“relevant authority” means a local authority or Transport for London;].

#### Textual Amendments

- F1** S. 39(2) substituted (3.7.2000) 1999 c. 29, s. 279(2), (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. III**
- F2** Words in s. 39(3) substituted (3.7.2000) by 1999 c. 29, s. 279(3) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. III**
- F3** Words in s. 39(3)(a) renumbered as s. 39(3)(a)(i) (3.7.2000) by 1999 c. 29, s. 279(4)(a) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. III**
- F4** Words in s. 39(3)(a) inserted (3.7.2000) by 1999 c. 29, s. 279(4)(b) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. III**
- F5** Words in s. 39(3)(a) substituted (1.11.1991) by New Roads and Streets Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 Pt. IV para. 121(3)(a)** (with s. 25(2)); S.I. 1991/2286, art. 2(2), **Sch. 2** (for Scotland); S.I. 1991/2288, art. 3, **Sch.** (for E.W.)
- F6** S. 39(3)(ii) and word added (3.7.2000) by 1999 c. 29, s. 279(4)(c) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. III**
- F7** Words in s. 39(3)(b) substituted (1.11.1991) by New Roads and Streets Works Act 1991 (c. 22, SIF 107:1), s. 168(1), **Sch. 8 para. 121** (3)(b) (with s. 25(2)); S.I. 1991/2286, art. 2(2), **Sch. 2** (for Scotland); S.I. 1991/2288, art. 3, **Sch.** (for E.W.)
- F8** Definition of “GLA roads” in s. 39(4) inserted (3.7.2000) by 1999 c. 29, s. 279(6), (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. III**
- F9** Words in s. 39(4)(b) substituted (S.) (1.4.1996) by 1994 C. 39, s. 180(1), Sch. 13 para. 159(4); S.I. 1996/323, **art. 4(1)(b)(c)**

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**F10** Definition of “relevant authority” in s. 39(4) inserted (3.7.2000) by 1999 c. 29, s. 279(6), (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. III**

**Modifications etc. (not altering text)**

**C2** S. 39: transfer of functions (1.7.1999) by 1998 c. 46, ss. 53, 56(1)(i) (with s. 126(3)-(11)); S.I. 1998/3178, **art. 2(1)**

**C3** S. 39(1): functions exercisable by the Assembly are to run concurrently with the Secretary of state (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**; S.I. 1998/3178, **art. 2(1)**

**Marginal Citations**

**M5** 1980 c. 66.

**[<sup>F11</sup>40 Road safety grants **E+W****

- (1) A national transport authority may make payments to any local authority or any other authority or body for meeting the whole or part of the capital or running costs of any measures for promoting road safety.
- (2) A “national transport authority” means—
  - (a) the Secretary of State acting with the approval of the Treasury, or
  - (b) the National Assembly for Wales.]

**Extent Information**

**E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

**Textual Amendments**

**F11** S. 40 substituted (E.W.) (8.1.2007) by Road Safety Act 2006 (c. 49), ss. 1, 61(7)(a)

**Modifications etc. (not altering text)**

**C4** S. 40: transfer of functions (1.7.1999) by 1998 c. 46, ss. 53, 56(1)(i) (with s. 126(3)-(11)); S.I. 1998/3178, **art. 2(1)**

S. 40 modified (1.7.1999) by S.I. 1999/672, arts. 1, 2, **Sch. 1**

**40 Powers of Secretary of State to subsidise bodies other than local authorities for giving road safety information and training. **S****

The Secretary of State may, with the approval of the Treasury, make out of monies provided by Parliament contributions towards the cost of measures for promoting road safety, being measures taken by <sup>F12</sup> . . . local authorities (within the meaning of section 39 of this Act) [<sup>F13</sup> or by other authorities or bodies].

**Extent Information**

**E2** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

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#### **Textual Amendments**

- F12** Words in s. 40 repealed (S.) (1.4.2001) by 2001 asp 2, **s. 76(a)** (with s. 66); S.S.I. 2001/132, art. 2, **Sch. Pt. I**
- F13** Words in s. 40 inserted (S.) (1.4.2001) by 2001 asp 2, **s. 76(b)** (with s. 66); S.S.I. 2001/132, art. 2, **Sch. Pt. I**

#### **Modifications etc. (not altering text)**

- C4** S. 40: transfer of functions (1.7.1999) by 1998 c. 46, **ss. 53, 56(1)(i)** (with s. 126(3)-(11)); S.I. 1998/3178, **art. 2(1)**
- S. 40 modified (1.7.1999) by S.I. 1999/672, arts. 1, 2, **Sch. 1**

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