

Changes to legislation: Scotland Act 2016, SCHEDULE 2 is up to date with all changes known to be in force on or before 14 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 2

Section 44

ROADS: CONSEQUENTIAL AND RELATED PROVISION

Commencement Information

II [Sch. 2](#) in force at 23.5.2016 see [s. 44](#)

PART 1

AMENDMENTS

Road Traffic Regulation Act 1984 (c. 52)

- 1 The Road Traffic Regulation Act 1984 is amended as follows.
- 2 (1) Section 15 (duration of orders etc under section 14) is amended as follows.
 - (2) In subsection (3)—
 - (a) for “Secretary of State”, in both places, substitute “ national authority ”, and
 - (b) in paragraph (b) for “that authority” substitute “ the authority that made the temporary order ”.
 - (3) In subsection (4)—
 - (a) for “Secretary of State” substitute “ national authority ”,
 - (b) omit “himself”,
 - (c) for “he” substitute “ the national authority ”, and
 - (d) for “that authority” substitute “ the authority that made the temporary order ”.
 - (4) In subsections (5), (6) and (7) for “Secretary of State”, in each place, substitute “ national authority ”.
- 3 (1) Section 16 (supplementary provision as to orders etc under section 14) is amended as follows.
 - (2) In subsection (2) for “Secretary of State” substitute “ national authority ”.
 - (3) In subsection (2A)—
 - (a) for “Secretary of State” substitute “ national authority ”, and
 - (b) for “he” substitute “ the national authority ”.
- 4 In section 17 (traffic regulation on special roads)—
 - (a) omit subsection (3ZD), and
 - (b) omit paragraph (b) of subsection (3A) (and the “and” before it).
- 5 In section 24 (Secretary of State to establish crossings on certain roads)—

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- (a) for “Secretary of State” substitute “ national authority ”, and
 - (b) for “he”, in both places, substitute “ the national authority ”.
- 6 In section 25(6)(b) (meaning of “crossing” in section 25 includes a crossing established by Secretary of State under section 24)—
- (a) for “Secretary of State” substitute “ national authority ”, and
 - (b) for “him” substitute “ the national authority ”.
- 7 In section 28 (stopping of vehicles at school crossings) for “Secretary of State”, in each place, substitute “ national authority ”.
- 8 (1) Section 86 (speed limits for particular classes of vehicles) is amended as follows.
- (2) For “national authority” in each place substitute “ relevant authority ”.
 - (3) Omit subsection (9).
- 9 In section 88 (temporary speed limits) for “national authority” in each place substitute “ relevant authority ”.
- 10 In section 124(1) (purposes of Schedule 9 etc) in paragraphs (a) and (b) for “Secretary of State” substitute “ national authority ”.
- 11 (1) Section 131 (application of road traffic enactments to Crown roads) is amended as follows.
- (2) For “Secretary of State”, in each place, substitute “ relevant authority ”,
 - (3) In subsection (1) for “him” substitute “ the relevant authority ”.
 - (4) In subsection (2)(b) for “him” substitute “ the relevant authority ”.
 - (5) In subsection (2)(c) for “the authority”, in both places, substitute “ the appropriate Crown authority ”.
 - (6) After subsection (7) insert—
 - “(8) In this section “relevant authority”—
 - (a) in relation to functions under this section so far as exercisable within devolved competence (within the meaning of the Scotland Act 1998), means the Scottish Ministers;
 - (b) otherwise, means the Secretary of State.”
- 12 (1) Section 134 (regulations) is amended as follows.
- (2) In subsection (1)—
 - (a) for “State,” substitute “ State or ”, and
 - (b) omit “, or on the Ministers acting jointly,”.
 - (3) In subsection (2)—
 - (a) omit “82(1)(b),”,
 - (b) omit “, or the Ministers acting jointly as the case may be,”, and
 - (c) for “or they think” substitute “ thinks ”.
 - (4) After subsection (3) insert—
 - “(3A) Before making regulations under section 25, 64 or 87(1)(b) the Secretary of State must consult with the Scottish Ministers.”

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(5) After subsection (5) insert—

“(6) Regulations made by the Scottish Ministers under this Act (except section 86) are subject to the negative procedure.

(7) Before making regulations under section 25, 64 or 87(1)(b) the Scottish Ministers must consult with the Secretary of State.

(8) Before making regulations under this Act, except section 82(1)(b), the Scottish Ministers must consult with such representative organisations as they think fit.”

13 In section 142(1) (general interpretation) omit the definition of “the Ministers”.

14 (1) Part 1 of Schedule 9 (reserve powers of Secretary of State in relation to certain orders) is amended as follows.

(2) In the heading to the Part for “Secretary of State” substitute “ national authority ”.

(3) In paragraph 1 (directions in relation to certain orders)—

- (a) for “Secretary of State” substitute “ national authority ”, and
- (b) after “give to that” insert “ authorised ”.

(4) In paragraph 2(b) (directions prohibiting certain orders)—

- (a) after “prohibiting the” insert “ authorised ”, and
- (b) for “Secretary of State” substitute “ national authority ”.

(5) In paragraph 3(1) (power of Secretary of State to make order instead of authorised authority)—

- (a) for “Secretary of State” substitute “ national authority ”, and
- (b) after “as well as by the” insert “ authorised ”.

(6) In paragraph 4 (arrangements for making order of Secretary of State effective etc)—

- (a) for “Secretary of State” substitute “ national authority ”,
- (b) for “him”, in each place, substitute “ the national authority ”, and
- (c) for “he”, in each place, substitute “ the national authority ”.

(7) In paragraph 6(1) (transfer of operation of parking place to local authority from Secretary of State)—

- (a) for “Secretary of State”, in each place, substitute “ national authority ”, and
- (b) in paragraph (b) for “he” substitute “ the national authority ”.

(8) In paragraph 7 (variation or revocation of order by Secretary of State), in subparagraph (1)—

- (a) for “Secretary of State” substitute “ national authority ”, and
- (b) for “he” substitute “ national authority ”.

(9) In paragraph 8 (matters as to which Secretary of State is to be satisfied before making order)—

- (a) for “Secretary of State” substitute “ national authority ”,
- (b) for “he” substitute “ the national authority ”,
- (c) for “him” substitute “ the national authority ”, and
- (d) after “discharged by the” insert “ authorised ”.

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- (10) In paragraph 9 (circumstances in which paragraph 8 does not apply)—
- (a) for “Secretary of State” substitute “ national authority ”,
 - (b) for “he”, in both places, substitute “ the national authority ”, and
 - (c) for “him” substitute “ the national authority ”.
- (11) For paragraph 12A (disapplication of Article 2 of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 1999) substitute—
- “12ZA A power conferred upon the Scottish Ministers by this Schedule, so far as it relates to the exercise of a power under this Act by virtue of section 22C, is exercisable only with the consent of the Secretary of State.”
- 15 (1) Part 2 of Schedule 9 (consent of Secretary of State to certain orders) is amended as follows.
- (2) In the heading to the Part for “Secretary of State” substitute “ national authority ”.
 - (3) In paragraph 13(1) (cases where consent is required) for “Secretary of State”, in each place, substitute “ national authority ”.
 - (4) Paragraph 15 (Secretary of State's power to add to or remove from orders for which consent is required) is amended as follows.
 - (5) In sub-paragraph (1) after “authorities” insert “ in England and Wales ”.
 - (6) After paragraph 15 insert—
 - “15A(1) The Scottish Ministers may by order add to or remove from the orders for which their consent is required by paragraph 13 such orders made by such traffic authorities in Scotland as the Scottish Ministers may specify in the order.
 - (2) An order under this paragraph may provide for the consent of the Scottish Ministers to be required (or not to be required) for an order for such purposes or in such circumstances as the Scottish Ministers may see fit to specify in the order under this paragraph.
 - (3) An order under this paragraph removing an order from the orders for which the consent of the Scottish Ministers is for the time being required is subject to the affirmative procedure.
 - (4) Any other order under this paragraph is subject to the negative procedure.”
 - (7) Paragraph 16 (consent to order with modifications) is amended as follows.
 - (8) In sub-paragraph (1)—
 - (a) for “to him for his” substitute “ for ”,
 - (b) after “Secretary of State” insert “ or the Scottish Ministers ”,
 - (c) omit “to him”, in the second place, and
 - (d) for “thinks” substitute “ or they think ”.
 - (9) In sub-paragraph (2)—
 - (a) for “Where” substitute “ Sub-paragraph (3) applies where ”,
 - (b) for “proposes” substitute “ or the Scottish Ministers propose ”,
 - (c) after “him”, in the first place, insert “ or them ”,
 - (d) omit “to him”, in the second place,

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- (e) for “he” substitute—
 - “(3) The Secretary of State or the Scottish Ministers”, and
 - (f) after “him”, in the third place, insert “ or them ”.
- (10) Paragraph 17 (general consent) is amended as follows.
- (11) In sub-paragraph (1)—
 - (a) after “Secretary of State” insert “ or the Scottish Ministers ”, and
 - (b) omit “his”.
- (12) In sub-paragraph (2) after “order” insert “ of the Secretary of State ”.
- (13) After sub-paragraph (2) insert—
 - “(3) Any order of the Scottish Ministers under this paragraph is subject to the negative procedure.”
- (14) In paragraph 18 (orders to be by statutory instrument) after “power” insert “ of the Secretary of State ”.
- 16 (1) Part 3 of Schedule 9 (procedure as to certain orders) is amended as follows.
 - (2) In paragraph 20(1) (consultation)—
 - (a) for “to the Secretary of State for his” substitute “ for ”, and
 - (b) omit “to the Secretary of State”, in the second place.
 - (3) In paragraph 21 (regulations as to procedure for orders of local authorities)—
 - (a) for “Secretary of State”, in each place, substitute “ national authority ”,
 - (b) for “him”, in both places, substitute “ the national authority ”, and
 - (c) for “he” substitute “ the national authority ”.
 - (4) In paragraph 24 (regulations as to procedure for orders of Secretary of State etc)—
 - (a) for “Secretary of State” substitute “ national authority ”,
 - (b) in the words before paragraph (a) for “him” substitute “ the national authority ”,
 - (c) in paragraph (b) for “he”, in both places, substitute “ the national authority ”, and
 - (d) in the words after paragraph (b) after “or” insert “ , where the national authority is the Secretary of State, ”.
 - (5) Paragraph 26 (objections to exercise of reserve power under paragraph 2) is amended as follows.
 - (6) In sub-paragraph (1) for “Secretary of State” substitute “ national authority ”.
 - (7) In sub-paragraph (2)—
 - (a) for “Secretary of State” substitute “ national authority ”,
 - (b) for “he” substitute “ the national authority ”, and
 - (c) for “him” substitute “ the national authority ”.
- 17 (1) Part 4 of Schedule 9 (variation or revocation of certain orders) is amended as follows.
 - (2) In paragraph 28 (power to vary or revoke order not affected by related exercise of a reserve power) after “Secretary of State” insert “ or the Scottish Ministers ”.

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- (3) In paragraph 29 (power to revoke an order under paragraph 7 not affected by paragraph 8)—
- (a) for “Secretary of State” substitute “ national authority ”, and
 - (b) omit “by him”.
- 18 In Part 5 of Schedule 9 (consultation with traffic commissioners), in paragraph 32—
- (a) for “to the Secretary of State for his”, in the first place, substitute “ for ”, and
 - (b) omit “to the Secretary of State for his consent”, in the second place.

Road Traffic Act 1988 (c. 52)

- 19 In section 195 of the Road Traffic Act 1988 (regulations) after subsection (4) insert—
- “(4ZA) Regulations made by the Scottish Ministers under section 20(5), 36(5) or 41(1) are subject to the negative procedure.”

Road Traffic (Temporary Restrictions) Procedure Regulations 1992 (S.I. 1992/1215)

- 20 The Road Traffic (Temporary Restrictions) Procedure Regulations 1992 are amended as follows.
- 21 In regulation 9(1) (continuation of order by direction of Secretary of State) for “Secretary of State” substitute “ national authority ”.
- 22 In regulation 15(5) (modification of regulation 9 in its application to Scotland) for “Secretary of State” substitute “ national authority ”.

*Zebra, Pelican and Puffin Pedestrian Crossings
Regulations and General Directions 1997 (S.I. 1997/2400)*

- 23 The Zebra, Pelican and Puffin Pedestrian Crossings Regulations and General Directions 1997 are amended as follows.
- 24 (1) Part 1 (the Zebra, Pelican and Puffin Pedestrian Crossings Regulations) is amended as follows.
- (2) In regulation 3(1) (interpretation), in paragraph (a) of the definition of “crossing” for “Secretary of State” substitute “ national authority ”.
 - (3) In paragraph 1(1)(c) of Schedule 1 (authorisation of steady light to illuminate zebra crossing globe) for “Secretary of State” substitute “ national authority ”.
- 25 (1) Part 2 (the Pelican and Puffin Pedestrian Crossings General Directions 1997) is amended as follows.
- (2) In direction 9 (approval of equipment relating to crossings) for “Secretary of State”, in each place, substitute “ national authority ”.
 - (3) In direction 10 (special directions)—
 - (a) in the title omit “by the Secretary of State”, and
 - (b) in the words that follow for “Secretary of State” substitute “ national authority ”.

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National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672)

- 26 In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999—
- (a) in paragraph (e)(i) of the entry relating to the Road Traffic Regulation Act 1984 for “ “the Ministers”” substitute “ “the national authority” ”, and
 - (b) in paragraph (b) of the entry relating to the Road Traffic Act 1988 omit “for Wales”.

Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 1999 (S.I. 1999/1750)

- 27 The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 1999 is amended as follows.
- 28 In Schedule 1 (enactments conferring functions transferred to the Scottish Ministers) omit the entries relating to the following—
- (a) the Road Traffic Regulation Act 1984;
 - (b) the Road Traffic (Temporary Restrictions) (Procedure) Regulations 1992;
 - (c) the Zebra, Pelican and Puffin Pedestrian Crossings Regulations and General Directions 1997.
- 29 In Schedule 3 (enactments conferring functions to be exercised subject to agreement or consultation of Scottish Ministers) omit the entries relating to the following—
- (a) the Road Traffic Regulation Act 1984;
 - (b) the Road Traffic Act 1988, section 36(5).

Traffic Signs Regulations and General Directions 2002 (S.I. 2002/3113)

- 30 The Traffic Signs Regulations and General Directions 2002 are amended as follows.
- 31 In Part 1 (the Traffic Signs Regulations 2002), in regulation 4 (interpretation), in the definition of “primary route” for “Secretary of State” substitute “ national authority ”.
- 32 (1) Part 2 (the Traffic Signs General Directions) is amended as follows.
- (2) In the following directions for “Secretary of State”, in each place, substitute “ national authority ”
- (a) direction 7(3) (signs indicating effect of statutory prohibitions);
 - (b) direction 28(a) (signs for migratory toad crossings);
 - (c) direction 38(1) (temporary signs);
 - (d) direction 39(6)(c) (signs for road censuses);
 - (e) direction 57 (approvals relating to road studs);
 - (f) direction 58 (supplementary provision relating to approval of road studs).
- (3) In direction 56 (approval of types of sign and signals)—
- (a) in paragraph (3)(a) for “Secretary of State or the Scottish Ministers” substitute “ national authority ”, and
 - (b) in paragraphs (5) and (6) for “Secretary of State” substitute “ national authority ”.

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*Scotland Act 1998 (Transfer of Functions to the
 Scottish Ministers etc) Order 2005 (S.I. 2005/849)*

- 33 In the Schedule to the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2005, in the entry relating to the Road Traffic Regulation Act 1984, omit paragraph (d) (Schedule 9).

PART 2

EXERCISE OF POWERS BY AGREEMENT

Traffic Sign Powers

- 34 (1) Sub-paragraph (2) applies if the Secretary of State makes a statutory instrument revoking the following instruments in relation to England and Wales—
- (a) the Zebra, Pelican and Puffin Pedestrian Crossing Regulations and General Directions 1997 (S.I. 1997/2400);
 - (b) the Traffic Signs (Temporary Obstructions) Regulations 1997 (S.I. 1997/3053);
 - (c) the Traffic Signs Regulations and General Directions 2002 (S.I. 2002/3113).
- (2) Despite anything in section 41 or 42 or Part 1 of this Schedule, the Secretary of State may by that instrument exercise one or more of the traffic signs powers to make provision in relation to roads in Scotland (including provision revoking one or more of the instruments mentioned in sub-paragraph (1) in relation to Scotland), with the consent of the Scottish Ministers.
- (3) The traffic signs powers are—
- (a) the power to make regulations under section 25 of the Road Traffic Regulation Act 1984 (pedestrian crossings);
 - (b) the power to make regulations under section 64 of that Act (traffic signs);
 - (c) the power to give general directions under section 65(1) of that Act (placing of traffic signs);
 - (d) the power to give general directions under section 85(2) of that Act (traffic signs for indicating speed restrictions);
 - (e) the power to make regulations under section 36(5) of the Road Traffic Act 1988 (traffic signs: discretionary disqualification for failure to comply).
- (4) The Secretary of State may exercise a power in any way by virtue of this paragraph only if the Secretary of State could have exercised it in that way but for the amendments made by sections 41 and 42 and Part 1 of this Schedule.

Powers to exempt from speed limits

- 35 (1) Sub-paragraph (2) applies in relation to the first statutory instrument made by the Secretary of State containing regulations under section 87(1)(b) of the Road Traffic Regulation Act 1984 as substituted by section 19 of the Road Safety Act 2006 (exemptions from speed limits: prescribed purposes and circumstances) in relation to vehicles used on roads in England.
- (2) Despite anything in section 41 or 42 or Part 1 of this Schedule, the Secretary of State may by that instrument, with the consent of the Scottish Ministers—

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- (a) make any provision under section 87(1)(b) of the Road Traffic Regulation Act 1984 that could be made by the Scottish Ministers, and
 - (b) in connection with any provision made by virtue of paragraph (a), make any provision under any of the traffic signs powers mentioned in paragraph 34(3) that could be made by the Scottish Ministers.
- (3) The Secretary of State may exercise a power in any way by virtue of this paragraph only if the Secretary of State could have exercised it in that way but for the amendments made by sections 41 and 42 and Part 1 of this Schedule.

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2017/455, reg. 3 by [S.I. 2019/1438 reg. 2](#)