



# Local Government etc. (Scotland) Act 1994

## 1994 CHAPTER 39

### PART I

#### LOCAL GOVERNMENT REORGANISATION

#### CHAPTER 6

#### FUNCTIONS

#### *Traffic*

#### **42 Power to secure management of traffic control system.**

- (1) Where the Secretary of State considers that—
  - (a) for the purposes of securing the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians), a system of traffic control should extend across the roads of two or more traffic authorities; and
  - (b) the authorities for those roads have not made satisfactory joint arrangements for the exercise of such of their functions under the <sup>M1</sup>Road Traffic Regulation Act 1984 as are necessary to secure the provision and management of such a system of traffic control,he may make an order under this section.
- (2) An order under this section may transfer to the Secretary of State such functions of those authorities under that Act as he considers necessary to enable him to secure the provision and management of such a system.
- (3) The Secretary of State may enter into arrangements with such an authority for the carrying out by that authority on his behalf of the functions mentioned in subsection (2) above.

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- (4) Any expenses reasonably incurred by the Secretary of State in exercising the functions transferred by an order under this section may be recovered by him from the traffic authorities from which the functions were transferred in such proportions—
- (a) as may be agreed between the authorities; or
  - (b) where there is no agreement, as may be determined by him.
- (5) In this section—
- “road” has the same meaning as in the <sup>M2</sup>Roads (Scotland) Act 1984; and
- “traffic authority” has the meaning given by section 121A of the Road Traffic Regulation Act 1984.

#### Marginal Citations

**M1** 1984 c. 27.

**M2** 1984 c. 54.

### 43 Guidance as to exercise of traffic powers.

- (1) For the purpose of ensuring that the exercise by an authority of any of the powers mentioned in subsections (2) and (3) below does not have an adverse effect on the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians)—
- (a) on the roads of any other authority; or
  - (b) on the national system of routes for through traffic in Scotland,
- the Secretary of State may issue guidance to an authority as to the exercise of those powers.
- (2) The powers referred to in subsection (1) above are the powers of an authority to make, vary or revoke orders under or by virtue of any of the following sections of the Road Traffic Regulation Act 1984, that is to say—
- (a) section 1 (traffic regulation orders);
  - (b) section 9 (experimental traffic orders);
  - (c) section 19 (orders concerning public service vehicles);
  - (d) section 32 (provision of parking places by authorities);
  - (e) section 35 (orders as to use of parking places);
  - (f) section 37 (orders relating to general scheme of traffic control);
  - (g) section 38 (orders as to use of parking places as bus or coach stations);
  - (h) section 45 (orders designating paying parking places);
  - (i) section 46 (further orders regulating paying parking places);
  - (j) section 49 (designation orders and designated parking places);
  - (k) section 53 (designation orders);
  - (l) section 82(2) (directions concerning restricted roads); and
  - (m) section 84 (speed limits on certain roads).
- (3) The powers referred to in subsection (1) above are the powers of an authority under sections 36 (construction of road humps) and 39A (construction of traffic calming works) of the <sup>M3</sup>Roads (Scotland) Act 1984.
- (4) Before issuing guidance under this section the Secretary of State shall consult

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- [<sup>F1</sup>(a)] the Common Services Agency for the Scottish Health Service in respect of the provision by them of an ambulance service by virtue of the National Health Service (Functions of the <sup>M4</sup>Common Services Agency) (Scotland) Order 1974
- [<sup>F2</sup>(b) the chief constable of the Police Service of Scotland,]
- [<sup>F2</sup>(c) the Scottish Fire and Rescue Service, and]
- [<sup>F2</sup>(d) the authorities for the areas to which the guidance relates.]
- for the areas to which the guidance relates.
- (5) Without prejudice to his power to make regulations under paragraph 21 of Schedule 9 to the <sup>M5</sup>Road Traffic Regulation Act 1984 or, as the case may be, section 39B(1) of the Roads (Scotland) Act 1984, the Secretary of State may by regulations make provision as to the procedures to be followed by authorities in relation to the guidance.
- (6) An authority shall, before exercising any power mentioned in subsections (2) and (3) above, and subject to any regulations made under subsection (5) above—
- (a) have regard to any guidance issued to them under this section;
  - (b) consider whether the proposed exercise of such power would be likely to have an effect on the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians)—
    - (i) on a road in the area of any other authority; or
    - (ii) on a road in the national system of routes for through traffic in Scotland; and
  - (c) if the proposed exercise would, in their opinion, have such an effect, consult—
    - (i) in the case of a road such as is mentioned in paragraph (b)(i) of this subsection, the other authority; or
    - (ii) in the case of a road such as is mentioned in paragraph (b)(ii) of this subsection, the Secretary of State.
- (7) Where an authority take any action which, in the opinion of the Secretary of State—
- (a) is contrary to any guidance issued to the authority under this section; and
  - (b) has or is likely to have an adverse effect on either of the matters referred to in paragraphs (a) and (b) of subsection (1) above,
- the Secretary of State may, after consulting the authority, direct the authority to take such steps within a period specified by him as may be necessary to conform with that guidance.
- (8) If, in the opinion of the Secretary of State, an authority have failed to comply with a direction under subsection (7) above, he may exercise any of their 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 that authority.
- (9) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) In this section—
- “authority” means—
- (a) in relation to the exercise of the powers mentioned in subsection (2) above, a traffic authority (within the meaning of the <sup>M6</sup>Road Traffic Regulation Act 1984); and

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- (b) in relation to the exercise of the powers mentioned in subsection (3) above, a roads authority (within the meaning of the <sup>M7</sup>Roads (Scotland) Act 1984); and  
 “road” has the same meaning as in the Roads (Scotland) Act 1984.

#### Textual Amendments

- F1** Words in s. 43(4) become s. 43(4)(a) (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [sch. 7 para. 75\(a\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F2** Words in s. 43(4) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [sch. 7 para. 75\(b\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

#### Marginal Citations

- M3** 1984 c. 54.  
**M4** S.I. 1974/467.  
**M5** 1984 c. 27.  
**M6** 1984 c. 27.  
**M7** 1984 c. 54.

#### 44 Restriction on order-making powers of existing authorities.

- (1) Where a regional council propose to make an order such as is mentioned in subsection (2) below and the order—
- (a) will come into effect after such date as the Secretary of State may by order made by statutory instrument prescribe; and
  - (b) will continue in effect after 31st March 1996,
- they shall, before making the order, seek the consent of the successor authority.
- (2) The orders referred to in subsection (1) above are any orders made under the following provisions of the <sup>M8</sup>Road Traffic Regulation Act 1984—
- (a) section 1 (traffic regulation orders);
  - (b) section 9 (experimental traffic orders);
  - (c) section 14 (temporary traffic orders);
  - (d) section 32 (provision of parking places by authorities);
  - (e) section 35 (orders relating to use of parking places);
  - (f) section 37 (orders as to general scheme of traffic control);
  - (g) section 45 (orders designating paying parking places);
  - (h) section 46 (further orders regulating paying parking places); and
  - (i) section 84 (speed limits on certain roads).
- (3) Where a successor authority refuse their consent to a proposed order to which this section applies the regional council shall not make the order without having obtained the consent of the Secretary of State.
- (4) Where—
- (a) a regional council have sought the consent of a successor authority to the making of a proposed order to which this section applies; and

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(b) the successor authority have failed, within 6 weeks of such consent being sought, to consent,

the successor authority shall be deemed to have given such consent.

(5) In this section “successor authority” means any council constituted under section 2 of this Act (other than the councils for Orkney Islands, Shetland Islands and Western Isles) in whose area the proposed order will have effect.

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**Marginal Citations**

**M8** 1984 c. 27.

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