

## 1974 No. 142

## LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Government (Road Traffic and Highways)  
 (Transitional Provisions) Order 1974**

<i>Made</i> - - - -	30th January 1974
<i>Laid before Parliament</i>	7th February 1974
<i>Coming into Operation</i>	1st April 1974

The Secretary of State for the Environment, in relation to England, and the Secretary of State for Wales, in relation to Wales, hereby make this Order in exercise of the powers conferred on them by section 254(1)(a) and (2)(a), (c) and (h) of the Local Government Act 1972(a) and of all other enabling powers:—

*Citation and commencement*

**1.** This Order may be cited as the Local Government (Road Traffic and Highways) (Transitional Provisions) Order 1974, and shall come into operation on 1st April 1974.

*Interpretation*

**2.—(1)** In this Order, unless the context otherwise requires:—

“the Act of 1972” means the Local Government Act 1972;

“existing local authority” means a county council, a county borough council or a county district council;

“highway” includes a highway as defined in the Highways Act 1959(b), a road, a street, a private street, a new street and a proposed highway, and where a highway is referred to as being situated in a county or district that reference shall, in relation to a new street or a proposed highway, be construed as a reference to its situation when it is provided or constructed;

“new local authority” means a county council or a district council;

“local authority” does not include a parish council or a community council;

“street parking place”, “off-street parking place” and “road” have the same meanings as in the Road Traffic Regulation Act 1967(c);

“Wales” means the area consisting of the counties established by section 20 of the Act of 1972, and “England” does not include any area included in any of those counties.

(2) Except where the context otherwise requires or where an expression defined in paragraph (1) above is used, any expression which is defined in the Highways Act 1959 and is used in this Order shall have the same meaning in this Order as in that Act.

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 (a) 1972 c.70.

(b) 1959 c.25.

(c) 1967 c.76.

(3) Any reference in this Order to any enactment shall be construed as a reference to that enactment as amended by or under any other enactment.

(4) The Interpretation Act 1889<sup>(a)</sup> shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

*Road Traffic Orders and Schemes*

3.—(1) Any provision which relates to a road or parking place for vehicles outside Greater London and which is contained in an order or scheme made by an existing local authority before 1st April 1974 under an enactment specified in paragraph (5) of this Article, or which has effect as if contained in such an order or scheme, shall, subject to paragraphs (2) and (3) below, have effect on and after 1st April 1974 as if contained in an order or scheme made under the enactment in question by the council of the county in which the road or parking place is situated and as if for references in the order or scheme to the existing local authority there were substituted, in relation to that road or parking place, references to that council.

(2) In the case of a provision with respect to a road where on 1st April 1974 part of the width of the road is situated in one county and part in another county and where the order containing the provision is one to which section 82(2) of the Road Traffic Regulation Act 1967 would have been applicable if it had been made on or after that date, paragraph (1) above shall have effect as if for the reference in that paragraph to the council of the county in which the road is situated there were substituted a reference to the council of the county in which one part is situated acting with the consent of the council of the county in which the other part is situated, and accordingly on or after 1st April 1974 the provision in question may be varied or revoked by either council acting with the consent of the other.

(3) In the case of an order with respect to—

(a) an off-street parking place in England or Wales which by virtue of the Local Authorities (England) (Property, etc.) Order 1973<sup>(b)</sup> or the Local Authorities (Wales) (Property, etc.) Order 1973<sup>(c)</sup>, as the case may be, is vested in the district council and not the county council on 1st April 1974, or

(b) a street parking place in Wales,

paragraph (1) above shall have effect as if for the reference in that paragraph to the council of the county there were substituted a reference to the council of the district (who shall be deemed to have been acting with the consent of the council of the county in making the order).

(4) In a case where the circumstances mentioned in Article 5 of this Order occur in relation to a provision to which this Article applies the provisions of this Article shall have effect subject to the provisions of that Article.

(5) The enactments referred to in paragraph (1) of this Article are sections 1, 5, 9, 12, 15, 21, 26, 28, 31, 33, 35, 36, 37, 73 and 74 of the Road Traffic Regulation Act 1967 and section 31 of the Road Traffic Act 1972<sup>(d)</sup>.

*Procedures begun but not completed before 1st April 1974*

4.—(1) Where before 1st April 1974 procedural steps have been taken by an existing local authority under any enactment in connection with the making, confirmation or approval of an order or scheme relating to a highway or parking

(a) 1889 c.63. (b) S.I. 1973/1861 (1973 III, p.6401).  
(c) S.I. 1973/1863 (1973 III, p.6452). (d) 1972 c.20.

place for vehicles outside Greater London, but all the procedural steps required in connection with that order or scheme have not been completed before that date, then, subject to paragraphs (3) and (4) below, the remaining steps required to be taken by the local authority in connection with that order or scheme may be taken on or after that date by the new local authority then having power under the enactment in question to make or submit the order or scheme, and any notice given or published, any order or scheme made, submitted or prepared in draft, and any other document made or issued by the existing local authority in the course of the procedural steps taken before that date by that authority shall have effect on and after that date as if for the references therein to the existing local authority there were substituted references to the new local authority.

(2) In the application of this Article in relation to a highway in an area for which, immediately before 1st April 1974, the local planning authority are a joint planning board constituted by an order made, or having effect as if made, under section 1 of the Town and Country Planning Act 1971(a) the expression "existing local authority" shall include that board and the expression "new local authority" shall include the planning board for that area as reconstituted under paragraph 1 or, as the case may be, paragraph 3 of Schedule 17 to the Act of 1972.

(3) In the case of an order with respect to—

(a) an off-street parking place in England or Wales, which by virtue of the Local Authorities (England) (Property, etc.) Order 1973 or the Local Authorities (Wales) (Property, etc.) Order 1973, as the case may be, is vested in the district council and not the county council on 1st April 1974, or

(b) a street parking place in Wales,

the district council and not the county council shall be regarded for the purpose of paragraph (1) above as the new local authority having power on and after 1st April 1974 to make the order in question.

(4) In the case of a public path creation order, a public path extinguishment order or a public path diversion order the authority to be regarded for the purposes of paragraph (1) above as the new local authority having power on and after 1st April 1974 to make the order in question shall be—

(a) the district council, where the existing local authority who were taking the procedural steps in connection with the order before 1st April 1974 were a county borough or county district council,

(b) the county council, where the existing local authority who were taking the said procedural steps before 1st April 1974 were a county council, and

(c) the planning board reconstituted as mentioned in paragraph (2) above, where the existing local authority who were taking the said procedural steps before 1st April 1974 were a joint planning board as mentioned in that paragraph.

(5) In a case where the circumstances mentioned in Article 5 of this Order occur in relation to an order or scheme such as is referred to in this Article the provisions of this Article shall have effect subject to the provisions of that Article.

*Division of instruments affecting highways*

5. Where provision as respects any length of highway outside Greater London is contained in an instrument made, submitted or published in draft, by an existing local authority before 1st April 1974 under any enactment and on and after that date part of that length is situated in the area of one new local authority and another part of that length is situated in the area of another new local authority, so that, if such provision had been made on or after that date as respects that length, separate instruments made, submitted or published in draft by each of those new local authorities would have been required, then—

- (a) the instrument made, submitted or published in draft before 1st April 1974 by the existing local authority shall have effect on and after that date as such number of separate instruments as would then be required for that provision, each instrument relating to the part of that length of highway situated in the area of one new local authority and containing references to the appropriate new local authority instead of references to the existing local authority, and
- (b) if the instrument is an order or scheme in relation to which some, but not all, of the necessary procedural steps have been taken before that date—
  - (i) any notice given or published and any other document made or issued in connection with the order or scheme before that date shall similarly have effect on and after that date as such number of separate notices and documents (each containing references to the appropriate new local authority) as may be requisite,
  - (ii) any remaining procedural steps required to be taken by the local authority may be carried out separately by the several authorities concerned, and
  - (iii) the orders and schemes as made, confirmed or approved shall (so far as practicable) reflect the division into separate instruments.

*General provisions relating to highways*

6.—(1) Where under the provisions of any enactment or otherwise, at any time before 1st April 1974, any act has been done by, any notice or payment has been given or made to, or any right or duty has been conferred or imposed on, an existing local authority in relation to any highway situated outside Greater London, in their capacity as highway authority for the highway, then, on and after that date, that act shall be deemed to have been done by, that notice or payment shall be deemed to have been given or made to, and that right or duty shall be deemed to have been conferred or imposed on—

- (a) insofar as the act, notice, payment, right or duty relates to the maintenance of a highway which under section 187(2) of the Act of 1972 a district council (having complied with the provisions of Part I of Schedule 20 to that Act) are on 1st April 1974 entitled to maintain, the council of the district in which the highway is situated,
- (b) insofar as the act, notice, payment, right or duty does not so relate, the council of the county in which the highway is situated,

and accordingly any document comprising or relating to the act, notice, payment, right or duty shall have effect on and after 1st April 1974 as if for any reference therein to the existing local authority concerned there were substituted a reference to the council of the district or county, as the case may be.

(2) Where under the provisions of any enactment, at any time before 1st April 1974, any act has been done by, any notice or payment has been given or made to, or any right or duty has been conferred or imposed on, an existing local authority, otherwise than as highway authority, in relation to any highway situated outside Greater London, then, subject to paragraph (3) below, on and after that date that act shall be deemed to have been done by, that notice or payment shall be deemed to have been given or made to, and that right or duty shall be deemed to have been conferred or imposed on, the council of the county or the council of the district in which the highway is situated, according as the function in connection with which the act was done, the notice was given, the payment was made or the right or duty was conferred or imposed becomes exercisable on and after that date by that council, and accordingly any document comprising or relating to the act, notice, payment, right or duty shall have effect on and after 1st April 1974 as if for any reference therein to the existing local authority concerned there were substituted a reference to the council of the county or district as the case may be.

(3) In a case where the function referred to in paragraph (2) above becomes exercisable on and after 1st April 1974 either by the council of the county or by the council of the district in which the highway is situated, that function shall be regarded for the purposes of that paragraph as becoming exercisable—

- (a) by the district council alone, where before that date the act was done by, the notice or payment was given or made to, or the right or duty was conferred or imposed on, a county borough or county district council,
- (b) by the county council alone, where before that date the act was done by, the notice or payment was given or made to, or the right or duty was conferred or imposed on, a county council.

(4) For the purposes of this Article an objection made before 1st April 1974 by an existing local authority to a scheme or order which is proposed to be made by the Secretary of State under any enactment and which, if made, would affect a highway in that authority's area, shall be regarded as an act done in connection with a function which on and after 1st April 1974 becomes exercisable by the council of the county in which the highway in question is situated.

(5) In a case where the circumstances mentioned in Article 5 of this Order occur the provisions of this Article shall have effect subject to the provisions of that Article.

(6) In this Article, except where the context otherwise requires—

- (a) reference to any act done by an authority shall include a reference to any scheme, order, regulation, byelaw, agreement, requirement, application, apportionment or demand for payment made, resolution passed, charge conferred, authorisation granted, notice, direction, consent, approval, licence, permit or certificate given, building line or improvement line prescribed, or other thing done by that authority;
- (b) reference to any notice given to an authority shall include a reference to any direction, consent or approval given to that authority; and
- (c) reference to any right or duty conferred or imposed upon an authority shall include a reference to an obligation assumed by or a requirement made upon or a deposit or lodgement made with that authority, a transfer of a highway to that authority and a provision for that authority to become the highway authority for a highway.

(7) Insofar as provision is made by Article 3, 4, 7 or 8 of this Order for any matter, the provisions of this Article shall not apply in relation to that matter.

*Private street works*

7.—(1) The provisions of this Article shall have effect in relation to streets outside Greater London, being streets as respects which the council of the county in which they are situated (in this Article referred to as “the new street works authority”) become on 1st April 1974 by virtue of the Act of 1972 the street works authority in place of the existing local authority (in this Article referred to as “the existing street works authority”) who immediately before that date were the street works authority therefor.

(2) Any notices given or proceedings or other action taken by or on behalf of the existing street works authority under the code of 1892 in relation to a street shall not be affected by reason of the Act of 1972, and such proceedings or action, and any works commenced under the said code, may be continued and completed in accordance with the provisions of the said code by the new street works authority as if they had given the notices, taken the proceedings or action or commenced the works.

(3) Where, at 1st April 1974, any works under the code of 1892 have been commenced but not completed in a street the new street works authority shall be entitled to recover—

(a) such of the expenses incurred by the existing street works authority as that authority could have recovered under the said code, and

(b) such of the expenses incurred by themselves as the said authority could have recovered under the said code had they completed the works;

and the new streets works authority shall have all such powers for the recovery of such expenses as they would have had if they had executed the whole of the works, and all the provisions of the said code shall apply accordingly.

(4) Where, at 1st April 1974, any works under the code of 1892 have been completed in a street the new street works authority shall have all such powers for the recovery of the expenses incurred in the execution of the works as they would have had if they had undertaken the works, and all the provisions of the said code shall apply accordingly.

(5) Where in relation to street works executed or proposed to be executed in any street the existing street works authority have given any notice or commenced any proceedings or taken any other action before 1st April 1974 under the code of 1875, or under any provision contained in a local Act and regulating the procedure relating to the execution of street works and payments in respect thereof, but those works have not been completed, or the expenses incurred by that authority in the execution of those works have not been fully recovered from the owners of the land liable therefor, by that authority before that date, then in relation to those street works the code of 1875 or the provision in the local Act, as the case may be, shall remain applicable notwithstanding section 188(5) of the Act of 1972 (which provides that the code of 1875 and certain provisions in local Acts shall cease to have effect) and the related repeals in Part IX of the Highways Act 1959 provided for in Schedule 30 to the Act of 1972, and any action remaining to be taken or right to be enforced in relation to those works under that code or that provision shall be taken or exercised by the new streets works authority and the provisions of paragraphs (2) to (4) of this Article shall apply as if for the references therein to the code of 1892 there were substituted references to the code of 1875, or, as the case may be, the provision of the relevant local Act.

(6) Where in relation to street works executed or proposed to be executed in any street the existing street works authority have given any notice or commenced any proceedings or taken any other action before 1st April 1974 but

those works have not been completed or the expenses incurred by that authority in the execution of those works have not been fully recovered from the owners of the land liable therefor by that authority before that date, and on and after that date part of that street is situated in the area of one new street works authority and another part is situated in the area of another such authority, then, subject to any agreement made between the new street works authorities concerned, the provisions of paragraphs (2) to (5) of this Article shall have effect so as to enable each such authority to take such action and exercise such rights as may be appropriate in relation to the part of the street and the land situated in the area of that authority, and the references in those paragraphs to the new street works authority shall be construed accordingly.

(7) Where before 1st April 1974 any sum has been paid to, or secured to the satisfaction of, the existing street works authority, under section 192 of the Highways Act 1959 or under any enactment which that section replaced, in respect of the cost of street works in a street, but those works have not been completed, or the expenses incurred by the existing street works authority in executing them have not been fully discharged by set-off or by recovery by that authority from the owners of the land liable therefor, before that date, then in the application to that sum and those street works of sections 192 to 198 of the said Act on and after that date—

- (a) in a case where on and after 1st April 1974 the whole of the street in question is situated in the area of one new street works authority, that authority shall be the street works authority for the purposes of those sections, and
- (b) in a case where on and after 1st April 1974 part of the street is situated in the area of one new street works authority and part is situated in the area of another such authority, the authority in whose area any part is situated shall in relation to the street works executed or to be executed in that part and in relation to the land situated in the area of that authority be the street works authority for the purposes of those sections.

(8) Where in the case mentioned in sub-paragraph (b) of paragraph (7) above the sum referred to in that paragraph has by virtue of the Local Authorities (England) (Property, etc.) Order 1973 or the Local Authorities (Wales) (Property, etc.) Order 1973 become vested on 1st April 1974 in one only of the new street works authorities concerned, or in two or more of those authorities but not in proportions calculated by reference to the cost of the street works executed or to be executed in the area of each authority, there shall be such financial adjustment between all the authorities concerned as shall ensure that each authority receives such portion of the said sum as is appropriate having regard to the street works executed or to be executed in that authority's area.

(9) Where a notice under section 174(3) or section 179(2) of the Highways Act 1959 (which relate to private street works) has been published before 1st April 1974, the provisions of paragraph 66 or, as the case may be, 67, of Schedule 21 to the Act of 1972 shall not have the effect of requiring copies of the resolution and the documents referred to in the said section 174(3) or 179(2) to be kept deposited and open to inspection on or after 1st April 1974 at any offices other than those at which they were required to be kept deposited and open for inspection before that date.

*Adaptation of certain agreements between Secretary of State and existing local authorities*

8.—(1) Where immediately before 1st April 1974 there is in force an agreement

of a description specified in column (2) of the Schedule to this Order, which was made, or which has effect as if made, under a statutory provision specified in relation thereto in column (1) of that Schedule between the Secretary of State and an existing local authority specified in relation to such agreement in column (3) of that Schedule, then, subject to paragraph (2) below, on and after 1st April 1974 that agreement shall have effect as an agreement between the Secretary of State and the new local authority specified therefor in column (4) of that Schedule and as if for references in such agreement to the existing local authority there were substituted references to the new local authority, and any rights or liabilities of the existing local authority under any such agreement which immediately before 1st April 1974 are subsisting against or, as the case may be, are enforceable by, the Secretary of State shall on and after that date be rights and liabilities of the new local authority.

(2) Where on and after 1st April 1974 the trunk road or other highway or the land or lighting system to which an agreement of a description specified in item 1, 2, 3 or 4 of the said Schedule relates is situated in the area of more than one of the new local authorities mentioned in column (4) of that Schedule in relation to that item, then that agreement shall be regarded as so many separate agreements between the Secretary of State and each relevant new local authority in whose area any length of the trunk road or other highway or any part of the land or lighting system, as the case may be, is then situated, each such agreement referring to the appropriate new local authority instead of to the existing local authority and relating to the length of trunk road or other highway or the part of the land or lighting system situated in the area of that new local authority, and any rights or liabilities of the existing local authority under the agreement as it was in force immediately before 1st April 1974 shall be divided between the new local authorities concerned in a manner which has regard to the nature of such rights and liabilities and also to the length of trunk road or other highway or the part of the land or lighting system situated in the area of each such authority.

(3) Where any action, measure or procedure has been begun before 1st April 1974 by an existing local authority in pursuance of any such agreement as is mentioned in paragraph (1) or (2) above but has not been completed by that date, that action, measure or procedure may be continued and completed by the new local authority who under paragraph (1) or, as the case may be, paragraph (2) above take the place of the existing local authority under the agreement in relation to the action, measure or procedure in question, and any notice given or published and any other document made or issued by or to the existing local authority before 1st April 1974 for the purpose of, or in connection with, that action, measure or procedure shall have effect on and after that date as if for references therein to the existing local authority there were substituted references to the new local authority.

*Saving for power of direction*

9. The provisions of this Order are without prejudice to any direction given in any particular case by the Secretary of State under section 254(4) of the Act of 1972 (which relates to cases where there are doubts as to which authority functions are transferred).

*Local statutory provisions not to be extended*

10. Nothing in this order shall operate to extend the area for which any local statutory provision is in force.



**THE SCHEDULE**  
**ADAPTATION OF AGREEMENTS BETWEEN SECRETARY OF STATE AND EXISTING LOCAL AUTHORITIES**

(1) Statutory provision under which agreement made	(2) Description of agreement	(3) Existing local authority	(4) New local authority
1. Highways Act 1959, section 10(1)	Agreement for delegation of functions with respect to the maintenance and improvement of, and any other dealing with, a trunk road or any land acquired in connection with a trunk road.	Existing county, county borough or county district council.	Council of the new county in which the trunk road or land is situated.
2. Highways Act 1959, section 10(4)	Agreement for the construction of a trunk road or for the carrying out of any work of improvement of, or other dealing with, a trunk road or any land acquired in connection with a trunk road.	ditto	ditto
3. Local Government Act 1966(a), section 30(1)	Agreement for delegation of functions with respect to the lighting of a trunk road or any other highway for which the Secretary of State is highway authority.	Existing county borough or county district council.	Council of the new district in which the trunk road or other highway is situated.
4. Local Government Act 1966, section 30(4)	Agreement for the carrying out of any works in connection with a lighting system provided or to be provided by the Secretary of State on a trunk road or other highway for which he is highway authority.	ditto	ditto

(a) 1966 c.42.

(1) Statutory provision under which agreement made	(2) Description of agreement	(3) Existing local authority	(4) New local authority
5. Highways Act 1971(a), section 27(1)	Agreement for delegation of functions with respect to the management of a trunk road picnic area or of public sanitary conveniences.	Existing county, county borough or county district council.	Council of the new county in which the picnic area or conveniences are situated in a case where the agreement is with an existing county council, and council of the new district in which the picnic area or conveniences are situated in a case where the agreement is with an existing county borough or county district council.
6. Highways Act 1971, section 27(3)	Agreement with respect to matters in connection with a trunk road picnic area or public sanitary conveniences.	ditto	ditto
7. Severn Bridge Tolls Act 1965(b), section 17(1)	Agreement with respect to services and facilities in connection with the levying of tolls on the Severn Bridge.	County Council of Gloucester.	County Council of Avon.
8. Severn Bridge Tolls Act 1965, section 17(2)	Agreement with respect to the operation of the service for the removal of vehicles from the Severn Bridge.	ditto	ditto

(a) 1971 c.41.

(b) 1965 c.24.

29th January 1974.

*Geoffrey Rippon,*  
Secretary of State for the Environment.

30th January 1974.

*Peter Thomas,*  
Secretary of State for Wales.

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#### EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order makes transitional and other provisions consequential on the Local Government Act 1972 in connection with schemes, orders and other instruments made and things done relating to road traffic and highway matters; so that the new local authorities can enforce and otherwise deal with instruments made and things done by the existing local authorities.

Article 3 deals with schemes and orders under the Road Traffic Regulation Act 1967 or the Road Traffic Act 1972; Article 4 makes provision for procedures begun but not completed before 1st April 1974; Article 5 provides for the division of instruments affecting highways; Article 6 contains general provisions with respect to highways; Article 7 deals with private street works and Article 8 adapts certain agreements made between the Secretary of State and existing local authorities.

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