

SCHEDULE 3

Regulation 37

ROAD TRAFFIC AND HIGHWAYS

Road traffic orders and schemes

1. Any order or scheme made or having effect as if made under any provision of the Road Traffic Regulation Act 1967 or section 31 of the Road Traffic Act 1972 by any authority shall, so far as it relates to any road in any area transferred by the order from the area of that authority, have effect as if it had been made by the authority empowered to make such an order or scheme for the road on and after the appointed day and if the power under which the order or scheme would have been made by that authority is one different from the power under which it was made as if it had been made under the power first mentioned.

2.—(1) Sub-paragraphs (2) to (4) shall apply in relation to—
parts of roads authorised for use as parking places under section 28 of the Road Traffic Regulation Act 1967; and
parking places on highways designated under section 35 (parking places where charges made) of that Act.

(2) In relation to such parking places in any area transferred to a county and district in Wales the reference in paragraph 1 to the authority empowered to make such an order or scheme shall be construed—

in the case of an order made by a county council, as a reference to the council of the county to which the area is transferred;

in the case of an order made by a district council, as a reference to the council of the district to which the area is transferred.

(3) In relation to such parking places in any other area transferred to a district in Wales the said reference shall be construed, in the case of an order made by a district council, as a reference to the council of the district to which the area is transferred.

(4) In relation to such parking places in any area transferred to Greater London the said reference shall be construed as a reference to the Greater London Council.

3. Paragraphs 1 and 2 shall have effect subject to the provision of paragraph 4.

Division of instruments affecting highways

4. Where provision as respects any length of highway is contained in an instrument made, submitted or published in draft before the appointed day under any enactment and on and after that day parts of that length are situated in the areas of two or more authorities so that, if provision had been made on or after that day as respects that length, separate instruments made, submitted or published in draft by each of those authorities would have been required, then—

(a) the instrument shall have effect on and after the appointed day 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 authority and containing references to that authority instead of references to the authority by whom it was made, submitted or published in draft, 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 the appointed day—

(i) any notice given or published and any other document made or issued in connection with the order or scheme before that day shall similarly have effect on and after that

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- day as such number of separate notices and documents (each containing references to the authority first mentioned in (a)) as may be requisite;
- (ii) any remaining procedural steps required to be taken by the authority by whom the scheme was made, submitted or published in draft 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

5.—(1) This paragraph shall apply where—

- (a) an area is transferred from the area of one highway authority to the area of another such authority; or
- (b) an area is transferred from one district to another district in the same county, and in this paragraph “transferred area” means an area so transferred, and “the transferee district”, in relation to any transferred area, means the district council to whose area the transferred area is transferred.

In the application of (a) to a county, district or London borough regulation 3(4) shall apply.

(2) Where, at the appointed day, in relation to any highway in a transferred area, under the provisions of any enactment or otherwise, 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—

- (a) the highway authority in their capacity as highway authority for the highway; or
- (b) the district council in their maintenance of the highway undertaken under section 187(2) (a) of the Local Government Act 1972,

then, on and after the appointed day, that act shall be deemed to have been done, that notice or payment shall be deemed to have been given or made, and that right or duty shall be deemed to have been conferred or imposed—

- (i) if the act, notice, payment, right or duty relates to the maintenance of a highway which under regulation 36 or otherwise under section 187(2) of the Act the transferee district council are entitled to maintain, by, to or on that council;
- (ii) otherwise, by, to or on the highway authority,

and accordingly any document comprising or relating to the act, notice, payment, right or duty shall have effect on and after the appointed day as if for any reference therein to the highway authority or district council mentioned in (a) or (b) there were substituted a reference to the district council or highway authority specified in (i) or (ii).

(3) Where, at the appointed day, in relation to any highway in a transferred area, under the provisions of any enactment, 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, a local authority (other than a parish council or community council) otherwise than as highway authority, then, subject to subparagraph (4), on and after the appointed day that act shall be deemed to have been done by, that notice or payment shall be deemed to have been given or made to, or that right or duty shall be deemed to have been conferred or imposed on, the specified authority, and accordingly any document comprising or relating to the act, notice, payment, right or duty shall have effect on and after the appointed day as if for any reference therein to the said local authority there were substituted a reference to the specified authority.

In this paragraph, “the specified authority” means the council of the county, district or London borough in which the highway is situated, or in the case of a highway situated in Greater London or the City the Greater London Council or the Common Council, by whom 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 the appointed day.

(4) In a case where the function referred to in sub-paragraph (3) is exercisable on and after the appointed day either by the council of the county or the council of the district in which the highway is situated, that function shall be regarded for the purposes of that sub-paragraph as becoming exercisable—

- (a) by the district council alone, where 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 district council or a London borough council;
- (b) by the county council alone, where 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 or the Greater London Council.

This sub-paragraph shall apply to any act, notice, payment, right or duty which by virtue of article 6(2) and (3) of the Local Government (Road Traffic and Highways) (Transitional Provisions) Order 1974 is deemed to have been done by, given or made to, or conferred or imposed on a county council or district council as if it had been done by, made or given to or conferred or imposed on such council.

(5) Sub-paragraphs (2) to (4) shall have effect subject to the provision of paragraph 4.

(6) In this paragraph—

any reference to any act done by an authority shall include a reference to any scheme, order (other than any order to which regulation 44 applies), 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;

any reference to any notice given to an authority shall include a reference to any direction, consent or approval given to that authority; and

any reference to any right or duty conferred or imposed on 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 or a provision for that authority to become the highway authority for a highway.

(7) In so far as provision is made by paragraphs 1, 2, 4 or 6 for any matter, the provisions of this paragraph shall not apply in relation to that matter.

Adaptation of certain agreements between Secretaries of State and local authorities

6.—(1) This paragraph applies to agreements made under section 10(1) and (4) of the Highways Act 1959, section 30(1) and (4) of the Local Government Act 1966 and section 27(1) and (3) of the Highways Act 1971 made before the appointed day between the Secretary of State for the Environment or the Secretary of State for Wales and a council described in column (1) of the following table and in force at the appointed day.

TABLE

(1)	(2)
The council of a county or the Greater London Council	The councils of counties and the Greater London Council
The council of a district or a London borough or the Common Council	The councils of districts and London boroughs and the Common Council

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(2) Where the matter to which the agreement applies is situated in a single transferred area, an agreement made between a Secretary of State and a council described in column (1) of the said table shall on and after the appointed day have effect as an agreement made between the Secretary of State and the authority specified in respect of the said council in column (2) to whose area the transferred area is transferred and as if for references therein to the said council there were substituted references to such authority, and any rights or liabilities of the said council under any such agreement which immediately before the appointed day are subsisting against or, as the case may be, are enforceable by, the Secretary of State shall on and after the appointed day be rights and liabilities of such authority.

(3) Where the matter to which the agreement applies is not so situated, an agreement made between a Secretary of State and a council described in column (1) of the said table shall have effect as separate agreements between the Secretary of State and—

- (a) if the matter remains in part situated in the area of the said council, that council, and
- (b) the councils specified in respect of the said council in column (2) in whose areas parts of the matter are situated,

each such agreement referring to the authority described in (a) or (b) and relating to so much of the matter as is situated in the area of such authority, and any rights or liabilities of the council described in column (1) under the agreement as in force at the appointed day shall be divided between the said authorities in a manner which has regard to the nature of such rights and liabilities and also to the extent of the matter in the area of each such authority.

(4) Where any action, measure or procedure has been begun before the appointed day by the council described in column (1) of the said table in pursuance of an agreement to which subparagraph (2) or (3) applies but has not been completed at the appointed day, that action, measure or procedure may be continued and completed by the authority or authorities specified in subparagraph (2) or (3), and any notice given or published and any other document made or issued by or to the said council before the appointed day for the purpose of, or in connection with, that action, measure or procedure shall have effect on and after that day as if for references therein to the said council there were substituted references to such authority or authorities.