

SCHEDULE 3

ROAD TRAFFIC AND HIGHWAYS

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 sub-paragraph (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

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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.