

TRAFFIC MANAGEMENT ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Network Management by Local Traffic Authorities

Section 16: The network management duty

48. *Section 16* places a duty on every local traffic authority to manage its road network to secure the expeditious movement of traffic on their road network, and to facilitate traffic movement on other traffic authorities' road networks. The network must be managed with a view to achieving the objective of the duty, so far as may be reasonably practicable, having regard to the local authority's other obligations, policies and objectives. The action a local authority may take in performing the duty includes the exercise of any powers affecting the use of the network, whether or not those powers were conferred on the authority in their capacity as a traffic authority.

Section 17: Arrangements for network management

49. *Section 17* requires authorities to make arrangements to carry out their network management duty under section 16. The arrangements must, among other things, include the appointment of a "Traffic Manager".

Sections 18 & 19: Guidance and power to require information

50. *Sections 18 and 19* provide for the Secretary of State (in England), or the National Assembly for Wales (in Wales) to issue guidance to authorities about the techniques of network management or other matters relating to the exercise of their network management duties and to obtain information from authorities connected with the performance of those duties. The Secretary of State and National Assembly for Wales are identified in the provisions of Part 2 of the Act as "the appropriate national authority".

Section 20: Intervention Notices

51. *Section 20* provides power for the Secretary of State (in England) and the National Assembly for Wales (in Wales) to give an intervention notice to a local traffic authority. *Subsection (3)* requires the authority to provide any information requested in the notice. *Subsection (2)(b)* provides the authority with an opportunity to make representations. *Subsection (5)* provides that the Secretary of State must consult the Mayor prior to any giving notice in respect of a London authority and, if it is given, provide him with a copy of the notice.

Sections 21: Intervention Orders

52. *Section 21* provides for an Intervention Order in connection with the appointment of a "Traffic Director" to an authority by the Secretary of State or National Assembly, as appropriate, in the event that they are satisfied that the authority is failing to perform

any duty under sections 16 and 17. Under *subsection (3)* the Order must set out the grounds for the appointment and the Traffic Director's objectives.

53. A Traffic Director may be given the powers which are described in general terms in *subsection (5)*. These are to monitor, to report, to intervene in the activities of the local authority, and to carry out functions of the local authority. *Subsection (7)* enables the scope of those general powers, as well as when and how such powers may be exercised, to be limited by the Order.
54. *Subsection (8)* defines the scope of the ancillary powers which may be conferred on the Traffic Director, which may include a requirement for the local authority to provide him with information and assistance. *Subsection (9)* provides for the amendment of the intervention order setting out the powers of the Traffic Director, after he has been appointed, but only after consultation with the local authority. *Subsection (10)* provides that the Secretary of State shall consult the Mayor prior to making an intervention order in respect of a London authority.

Section 23: Monitoring and Reporting

55. *Section 23* provides that the Intervention Order may confer on a Traffic Director a power to monitor the performance of the local authority of their duties under section 16 and 17 and a power to make reports to the local authority and/or Secretary of State (in England) or the National Assembly for Wales (in Wales).

Section 24: Intervention in activities of local traffic authority

56. *Section 24* provides for the powers that an Intervention Order may confer on a Traffic Director to direct a local authority to take (or not take) certain actions.

Section 25: Exercise of local traffic authority functions

57. *Section 25* provides that an Intervention Order may confer on a Traffic Director a power to exercise specified functions in place of the authority.

Section 26: Application of sections 20 to 25 to Local Traffic Authorities exercising functions jointly

58. Authorities may exercise jointly a function which is relevant to achieving their duties under sections 16 and 17. *Section 26* enables the Secretary of State or National Assembly, by Order, to apply sections 20 to 25 to such cases. *Subsection (2)* provides that such an Order made by the Secretary of State shall be subject to negative resolution in either House of Parliament.

Sections 27 & 28: Criteria for making Intervention Orders and Guidance to Traffic Directors

59. *Section 27* requires the Secretary of State or National Assembly to give guidance about the criteria which it proposes to apply in deciding whether to intervene under this Part. *Subsection (2)* of that section provides that the guidance shall be appended to an Order made by the Secretary of State (in England) or National Assembly for Wales (in Wales). *Subsection (3)* provides that an Order of the Secretary of State will be subject to negative resolution in either House of Parliament. *Section 28* allows the Secretary of State (in England) or National Assembly for Wales (in Wales), to issue guidance to Traffic Directors. This is not subject to Parliamentary procedure.

Section 29: Traffic Directors in London

60. *Section 29* provides for the relationship between the Mayor and a Traffic Director appointed in relation to a London authority, or where a Traffic Director is appointed in relation to Transport for London. *Subsection (3)* provides that a Traffic Director need

*These notes refer to the Traffic Management Act 2004
(c.18) which received Royal Assent on 22 July 2004*

not comply with a direction from the Mayor under Part 4 (Transport) of the Greater London Authority Act 1999.

61. *Subsections (6) and (7)* provide that where a Traffic Director is appointed in relation to TfL, and exercises the power of TfL to object to a Borough proposal under s. 301A (3) of the Highways Act 1980 or s. 121B(3) of the Road Traffic Regulation Act 1984 (or directs TfL to exercise this power), the Greater London Authority will not be able to override this objection by giving its consent.

Section 30: Recovery of costs from local traffic authorities

62. *Section 30* provides that the Secretary of State (in England) or the National Assembly for Wales (in Wales), may recover from an authority the expenditure it has incurred in appointing a Traffic Director to that authority (including expenditure towards any costs incurred by the Traffic Director), after allowing for any of the Traffic Director's costs that are met from other sources.

Section 31: Interpretation of Part 2

63. *Section 31* defines various terms in Part 2. It should be noted that local traffic authorities in England are Transport for London, London Borough Councils, the Common Council of the City of London, County Councils, Metropolitan District Councils and Unitary Councils. Among other things, the section provides that "London authority" means Transport for London, a London Borough Council or the Common Council of the City of London; "Mayor" means the Mayor of London; and defines "road network". It also provides that "traffic" includes "pedestrians".