

# LOCAL TRANSPORT ACT 2008

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## EXPLANATORY NOTES

### COMMENTARY

#### **Part 1: The traffic commissioners**

##### ***Section 1: Traffic areas***

44. Section 3(2) of the Public Passenger Vehicles Act 1981 (“PPVA 1981”) empowers the Secretary of State by order to vary the extent or number of traffic areas. *Section 1* inserts new subsections (2A), (2B) and (2C) into section 3 of the PPVA 1981.
45. These new subsections provide that an order made under section 3(2) may include amendments or modifications to any provision of the Local Transport Act 2008 or any other enactment needed to give full effect to any changes to traffic areas in England and Wales. Orders made under this provision are subject to the affirmative resolution procedure.

##### ***Section 2: Traffic commissioners***

46. *Subsection (2)* substitutes subsections (1) and (2) of section 4 of the PPVA 1981. The effect is to abolish the existing requirement for a traffic commissioner to be appointed for each traffic area. Instead, the Secretary of State may appoint such number of traffic commissioners for England and Wales as is considered appropriate. However, a single commissioner for the Scottish Traffic Area is retained. New section 4(2) continues the existing provision for traffic commissioners to be appointed by the Secretary of State and provides for them to be known as “traffic commissioners”.
47. *Subsection (4)* inserts new section 4(3A) and (3B) into the PPVA 1981 to define the jurisdiction of traffic commissioners. Traffic commissioners in England and Wales are granted full jurisdiction in respect of all their statutory functions throughout England and Wales, and also in relation to “reserved matters” (within the meaning of the Scotland Act 1998) in the Scottish traffic area. The Scottish Commissioner is granted full jurisdiction in respect of all devolved and reserved statutory functions in the Scottish traffic area, and also in relation to reserved matters in England and Wales.

##### ***Section 3: The senior traffic commissioner***

48. The Secretary of State has designated one of the traffic commissioners as senior traffic commissioner. The post currently has no statutory basis and the post holder no statutory powers. *Subsection (1)* inserts new sections 4A to 4D into the PPVA 1981 to put this post on a statutory footing.
49. New section 4B confers powers on the senior traffic commissioner to deploy other traffic commissioners. The effect is that the senior traffic commissioner can require any traffic commissioner or deputy in England and Wales to carry out any function at any place within that jurisdiction, and also to carry out reserved functions in Scotland. The senior traffic commissioner can also require the traffic commissioner for the Scottish

Traffic Area, and his deputies, to carry out any reserved function in any place in England and Wales.

50. New section 4C empowers the senior traffic commissioner, following consultation, to issue guidance and general directions to traffic commissioners about the exercise of any of their functions. Traffic commissioners would be required to act under the general directions of, and to have regard to any such guidance given by, the senior traffic commissioner. This replaces the previous requirement for traffic commissioners to act under the general directions of the Secretary of State (whose power to give such directions is removed). The power of the senior traffic commissioner to issue guidance and directions to the Scottish traffic commissioner extends only to reserved matters.
51. New section 4D empowers the Secretary of State to issue guidance to the senior traffic commissioner on the exercise of his functions, and subsection (2) requires the senior traffic commissioner to have regard to any such guidance.
52. [Section 3](#) also provides for additional remuneration to be paid to the senior traffic commissioner, and includes a transitional provision so that the person designated as senior traffic commissioner prior to the creation of the new statutory post will become the first holder of that office.

#### ***Section 4: Amendments of Schedule 2 to the PPVA 1981***

53. This section amends Schedule 2 to the PPVA 1981, which includes provisions about the terms of service of traffic commissioners, appointment and terms of office of deputy traffic commissioners, and pensions and remuneration.
54. The circumstances in which the Secretary of State can dismiss a traffic commissioner are amended. Currently a traffic commissioner can be dismissed for “inability or misbehaviour”. Under the new provisions the Secretary of State could dismiss a traffic commissioner for misbehaviour or because that traffic commissioner is unable, unfit or unwilling to perform the functions of a traffic commissioner to a satisfactory standard.
55. [Section 4](#) inserts new provisions relating to the appointment and terms of office of deputy traffic commissioners in England and Wales. The effect is to empower the Secretary of State to appoint such number of deputy traffic commissioners in England and Wales as the Secretary of State thinks fit. Deputy traffic commissioners for England and Wales may be deployed by the senior traffic commissioner to exercise any of their functions in any place in England and Wales, and to exercise functions in relation to reserved matters in the Scottish Traffic Area.
56. The existing powers in paragraphs 3 to 5 of Schedule 2 relating to the appointment and terms of office of deputy traffic commissioners will in future apply in Scotland only.

#### ***Section 5: Transitional provision for existing traffic commissioners etc***

57. This section contains transitional provisions which will apply to traffic commissioners and deputy traffic commissioners in England and Wales who are in post when these provisions come into force. In particular, traffic commissioners already in post will remain on their existing terms and conditions of employment, except that they will be subject to the revised terms on dismissal in the amended paragraph 1 of Schedule 2 to the PPVA 1981 (see notes on section 4 above). Similar provisions are made for any existing traffic commissioner for the Scottish Traffic Area. As the appointment and terms of office for any deputy traffic commissioner for the Scottish Traffic Area are not affected by these provisions, no transitional arrangements are required.

#### ***Section 6: Consequential amendments***

58. This section empowers the Secretary of State, in secondary legislation, to make any necessary consequential changes to the Local Transport Act 2008 and to other legislation (primary and secondary) to give full effect to the new provisions about

*These notes refer to the Local Transport Act 2008 (c.26)  
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traffic commissioners. This will be necessary in particular to reflect the new jurisdiction of traffic commissioners and the removal of the link in England and Wales between particular commissioners and specific traffic areas. The power is limited, in so far as it extends to Scotland, to reserved matters. Orders made under this provision will be subject to the affirmative resolution procedure.