



Local Transport Act 2008

2008 CHAPTER 26

PART 1

THE TRAFFIC COMMISSIONERS

1 Traffic areas

(1) Section 3 of the PPVA 1981 (traffic areas) is amended as follows.

(2) After subsection (2) (orders varying traffic areas) insert—

“(2A) The power to make an order under subsection (2) above includes power to make—

- (a) such incidental, consequential, supplemental or transitional provision, and
- (b) such savings,

as the Secretary of State may consider necessary or expedient for the purpose of, or in consequence of, or for giving full effect to, any order under that subsection for varying the number or limits of traffic areas in England and Wales.

(2B) The power conferred by subsection (2A) above includes power to amend or modify any provision of this Act or any other enactment (whenever passed or made) for the purpose of making any such provision or savings.

(2C) The powers conferred by subsections (2A) and (2B) above are without prejudice to what may be done under subsection (3) below.”.

2 Traffic commissioners

(1) Section 4 of the PPVA 1981 (traffic commissioners) is amended as follows.

(2) For subsections (1) and (2) (commissioner to be appointed for each traffic area etc) substitute—

Status: This is the original version (as it was originally enacted).

- “(1) For the purposes of this Act there shall be—
- (a) such number of commissioners for England and Wales as the Secretary of State may consider appropriate; and
 - (b) a single commissioner for the Scottish Traffic Area (the “Scottish traffic commissioner”).
- (2) The commissioners shall be appointed by the Secretary of State and shall be known as traffic commissioners.”.
- (3) In subsection (3) (function of issuing licences) for “The traffic commissioner for each traffic area” substitute “A traffic commissioner”.
- (4) After subsection (3) insert—
- “(3A) A traffic commissioner for England and Wales—
- (a) may exercise the functions of a traffic commissioner in any traffic area in England and Wales; and
 - (b) may exercise in relation to the Scottish Traffic Area any functions of a traffic commissioner that relate to reserved matters within the meaning of the Scotland Act 1998.
- (3B) The Scottish traffic commissioner—
- (a) is to exercise the functions of a traffic commissioner in relation to the Scottish Traffic Area; and
 - (b) may exercise in relation to any traffic area in England and Wales any functions of a traffic commissioner that relate to reserved matters within the meaning of the Scotland Act 1998.”.

(5) In subsection (4) (terms of office) in the opening words, for “the traffic commissioner for a traffic area” substitute “a traffic commissioner”.

(6) In subsection (5) (declaration of certain financial interests before appointment) for “the traffic commissioner for a traffic area” substitute “a traffic commissioner”.

(7) In section 82(1) of the PPVA 1981 (general definitions) insert at the appropriate place—

““the Scottish traffic commissioner” is to be read in accordance with section 4(1)(b) (the traffic commissioner for the Scottish Traffic Area);”.

3 The senior traffic commissioner

- (1) After section 4 of the PPVA 1981 (traffic commissioners) insert—
- “4A Appointment of senior traffic commissioner**
- (1) One of the traffic commissioners shall be appointed by the Secretary of State to be the senior traffic commissioner.
 - (2) The senior traffic commissioner shall have such functions as may be conferred or imposed by or under any of the following enactments—
 - (a) section 4B below (deployment of traffic commissioners),
 - (b) section 4C below (guidance and general directions),
 or any other provision of this Act or any other enactment.

Status: This is the original version (as it was originally enacted).

- (3) The senior traffic commissioner—
 - (a) shall hold office for such period as the Secretary of State specifies when making the appointment; but
 - (b) ceases to hold that office on ceasing to hold office as a traffic commissioner.
- (4) A traffic commissioner who has been the senior traffic commissioner is eligible for re-appointment as the senior traffic commissioner.
- (5) In the case of illness, incapacity or absence of the senior traffic commissioner, the Secretary of State may appoint another traffic commissioner to act as deputy for the senior traffic commissioner.
- (6) Where the office of senior traffic commissioner becomes vacant, the Secretary of State may appoint a person (whether or not over the age of 65) to act as senior traffic commissioner pending the appointment of a new senior traffic commissioner.
- (7) Any person appointed under subsection (6) above shall—
 - (a) hold office for such period as the Secretary of State specifies when making the appointment; and
 - (b) during that period be treated for all purposes as the senior traffic commissioner.

4B Power of senior traffic commissioner to deploy other commissioners

- (1) In this section—
 - (a) subsections (2) to (4) confer powers on the senior traffic commissioner in relation to traffic commissioners and deputy traffic commissioners for England and Wales; and
 - (b) subsections (5) to (7) confer powers on the senior traffic commissioner in relation to the Scottish traffic commissioner and any deputy traffic commissioners for the Scottish traffic area.
- (2) The senior traffic commissioner may require any traffic commissioner for England and Wales to carry out such of the functions of traffic commissioner for England and Wales as the senior traffic commissioner may determine—
 - (a) in relation to such matters relating to England and Wales, or
 - (b) as respects Scotland, in relation to such reserved matters,as the senior traffic commissioner may determine.
- (3) The senior traffic commissioner may require any traffic commissioner for England and Wales to carry out such of those functions as the senior traffic commissioner may determine at such places—
 - (a) in England and Wales, or
 - (b) in the case of functions which relate to reserved matters and are exercisable in relation to Scotland, in Scotland,as the senior traffic commissioner may determine.
- (4) Subsections (2) and (3) above also apply in relation to a deputy traffic commissioner for England and Wales as they apply in relation to a traffic

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commissioner for England and Wales, construing the references to functions accordingly.

- (5) The senior traffic commissioner may require the Scottish traffic commissioner to carry out as respects England and Wales such of the functions exercisable by the Scottish traffic commissioner in relation to reserved matters by virtue of section 4(3B)(b) of this Act as the senior traffic commissioner may determine.
- (6) The senior traffic commissioner may require the Scottish traffic commissioner to carry out such of those functions as the senior traffic commissioner may determine at such places in England and Wales as the senior traffic commissioner may determine.
- (7) Subsections (5) and (6) above also apply in relation to a deputy traffic commissioner for the Scottish Traffic Area as they apply in relation to the Scottish traffic commissioner, construing the references to functions accordingly.
- (8) In this section—

“deputy traffic commissioner for the Scottish Traffic Area” means any person appointed under paragraph 3 or 4 of Schedule 2 to this Act to act as deputy in the case of the Scottish traffic commissioner;

“reserved matters” means reserved matters within the meaning of the Scotland Act 1998.

4C Power of senior traffic commissioner to give guidance and directions

- (1) The senior traffic commissioner may give to the traffic commissioners—
 - (a) guidance, or
 - (b) general directions,
 as to the exercise of their functions under any enactment.
 This subsection is subject, in relation to Scotland, to subsection (5) below.
- (2) The guidance that may be given under subsection (1)(a) above includes guidance as to—
 - (a) the meaning and operation of any enactment or instrument relevant to the functions of traffic commissioners;
 - (b) the circumstances in which, and the manner in which, a traffic commissioner should exercise any power to impose any sanction or penalty;
 - (c) matters which a traffic commissioner should or should not take into account when exercising any particular function.
- (3) The directions that may be given under subsection (1)(b) above include directions as to—
 - (a) the circumstances in which, and the manner in which, officers or servants of a traffic commissioner may exercise any function for or on behalf of the traffic commissioner, and any conditions which such officers or servants must meet before they may do so;
 - (b) the information which a traffic commissioner must ask to be supplied in connection with the exercise of any particular function, and the

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- steps which must be taken to verify the accuracy of any information so supplied;
- (c) the procedure to be adopted in conducting inquiries under section 54 of this Act, section 35 of the Goods Vehicles (Licensing of Operators) Act 1995 or any other enactment;
 - (d) the manner in which a traffic commissioner must or may publish his decisions;
 - (e) circumstances in which a traffic commissioner must consult some, or all, of the other traffic commissioners before exercising any particular function.
- (4) The senior traffic commissioner must consult each of the following persons before giving any guidance or directions under subsection (1) above—
- (a) the Secretary of State;
 - (b) the Scottish Ministers, if the senior traffic commissioner considers it appropriate;
 - (c) the Welsh Ministers, if the senior traffic commissioner considers it appropriate;
 - (d) such of the other traffic commissioners as the senior traffic commissioner considers appropriate;
 - (e) such organisations representative of the interests of local government, of London government, of Integrated Transport Authorities and of Passenger Transport Executives as the senior traffic commissioner considers appropriate;
 - (f) such organisations representative of the interests of users of public passenger transport services as the senior traffic commissioner considers appropriate;
 - (g) such organisations representative of passenger transport operators, and of road haulage operators, as the senior traffic commissioner considers appropriate;
- and such other persons as the senior traffic commissioner considers appropriate.
- (5) The only guidance or directions under this section which the senior traffic commissioner may give to the Scottish traffic commissioner are guidance or directions as to the exercise of functions that relate to reserved matters within the meaning of the Scotland Act 1998.

4D Guidance to senior traffic commissioner by Secretary of State

- (1) The Secretary of State may give the senior traffic commissioner guidance as to the exercise of any of the senior traffic commissioner's functions.
 - (2) The senior traffic commissioner must have regard to any guidance given under subsection (1) above.”
- (2) In each of the following provisions (which provide for traffic commissioners to act under general directions of the Secretary of State)—
- (a) section 4(4)(a) of the PPVA 1981,
 - (b) section 1(2) of the Goods Vehicles (Licensing of Operators) Act 1995 (c. 23),

Status: This is the original version (as it was originally enacted).

for “the general directions of the Secretary of State” substitute “the general directions of, and shall have regard to any guidance given by, the senior traffic commissioner”.

(3) In Schedule 2 to the PPVA 1981 (traffic commissioners) in paragraph 8, at the beginning insert “(1)” and at the end insert—

“(2) There shall be paid to the senior traffic commissioner such additional remuneration in respect of the responsibilities of that office as may be so determined.”.

(4) The person who, on the date on which section 4A(1) of the PPVA 1981 comes into force, is the person designated by the Secretary of State as senior traffic commissioner—

- (a) is to become, on that date, the first holder of the office of senior traffic commissioner, and
- (b) is to remain in that office until the expiry of the term for which that person was so designated (but subject to section 4A(3)(b) of, and Schedule 2 to, the PPVA 1981).

4 Amendments of Schedule 2 to the PPVA 1981

(1) Schedule 2 to the PPVA 1981 (traffic commissioners) is amended as follows.

(2) In paragraph 1 (removal of traffic commissioner for inability or misbehaviour) for “for inability or misbehaviour” substitute “on the grounds that the traffic commissioner—

- (a) has misbehaved; or
- (b) is unable, unfit or unwilling to perform the functions of traffic commissioner to a standard which the Secretary of State considers satisfactory”.

(3) The amendment made by subsection (2) has effect in relation to traffic commissioners appointed before, as well as traffic commissioners appointed on or after, the day on which that amendment comes into force.

(4) After paragraph 2 insert—

“Deputy traffic commissioners for England and Wales

2A (1) The Secretary of State may appoint such number of persons to be deputy traffic commissioners for England and Wales as the Secretary of State thinks fit.

(2) A deputy traffic commissioner for England and Wales—

- (a) may exercise any functions of a traffic commissioner in any traffic area in England and Wales; and
- (b) may exercise in relation to the Scottish Traffic Area any functions of a traffic commissioner that relate to reserved matters.

(3) Appointment as a deputy traffic commissioner for England and Wales shall be upon such terms and conditions, including conditions as to the time to be devoted to the duties of the office, as the Secretary of State may determine.

Status: This is the original version (as it was originally enacted).

- (4) A deputy traffic commissioner for England and Wales shall carry out such of the functions of that office as the senior traffic commissioner may determine under section 4B of this Act—
- (a) in relation to such matters relating to England and Wales, or
 - (b) as respects Scotland, in relation to such reserved matters,
- as the senior traffic commissioner may so determine.
- (5) A deputy traffic commissioner for England and Wales shall carry out such of those functions as the senior traffic commissioner may determine under section 4B of this Act at such places—
- (a) in England and Wales, or
 - (b) in the case of functions which relate to reserved matters and are exercisable in relation to Scotland, in Scotland,
- as the senior traffic commissioner may so determine.
- (6) In this paragraph “reserved matters” means reserved matters within the meaning of the Scotland Act 1998.”.
- (5) In consequence of the amendments made by this section, at the end of the italic heading preceding paragraph 3 there is inserted “in Scotland”.
- (6) After that heading, insert—
- “2B Paragraphs 3 to 5 below have effect in relation to the Scottish Traffic Area only.”.
- (7) After paragraph 5 insert—

“Appointment of acting traffic commissioner during vacancy

- 5A (1) Where the office of any traffic commissioner for England and Wales becomes vacant, the Secretary of State may appoint a person (whether or not over the age of 65) to act as a traffic commissioner for England and Wales pending the appointment of a new traffic commissioner under section 4 of this Act.
- (2) Any person appointed under sub-paragraph (1) above shall—
- (a) hold office for such period as the Secretary of State specifies when making the appointment; and
 - (b) during that period be treated for all purposes (except those of paragraph 9 below) as a traffic commissioner for England and Wales.”.
- (8) In consequence of the amendment made by subsection (7), in paragraph 6(1) (appointment of acting traffic commissioner during vacancy) after “for any traffic area” insert “in Scotland”.
- (9) In paragraph 9 (principal civil service pension scheme) for “traffic commissioner for each of the traffic areas” substitute “traffic commissioner for England and Wales or for the Scottish Traffic Area”.

5 Transitional provision for existing traffic commissioners etc

- (1) Any existing traffic commissioner for a traffic area in England and Wales—

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- (a) on the relevant commencement, becomes instead a traffic commissioner for England and Wales with all the powers and duties of such a commissioner,
 - (b) holds that office on the terms and conditions that applied to the commissioner immediately before the relevant commencement,
 - (c) is subject to paragraph 1 of Schedule 2 to the PPVA 1981 (grounds for dismissal), as amended by section 4, as from the coming into force of that amendment.
- (2) Any appointment of a person as a deputy traffic commissioner for a traffic area in England and Wales before the relevant commencement—
- (a) continues in force notwithstanding the substitution of subsections (1) and (2) of section 4 of the PPVA 1981 effected by section 2,
 - (b) has effect as from the relevant commencement as an appointment under paragraph 2A of Schedule 2 to that Act as a deputy traffic commissioner for England and Wales with all the powers and duties of such a commissioner,
 - (c) as from the relevant commencement is held on the terms and conditions that applied to the deputy traffic commissioner immediately before the relevant commencement.
- (3) Any appointment of a person as an acting traffic commissioner for a traffic area in England and Wales before the relevant commencement—
- (a) continues in force notwithstanding the substitution of subsections (1) and (2) of section 4 of the PPVA 1981 effected by section 2,
 - (b) has effect as from the relevant commencement as an appointment under paragraph 5A of Schedule 2 to that Act to act as a traffic commissioner for England and Wales with all the powers and duties of such a commissioner,
 - (c) as from the relevant commencement is held on the terms and conditions that applied to the acting traffic commissioner immediately before the relevant commencement.
- (4) Any existing traffic commissioner for the Scottish Traffic Area—
- (a) on the relevant commencement, becomes instead the Scottish traffic commissioner with all the powers and duties of that commissioner,
 - (b) holds that office on the terms and conditions that applied to the traffic commissioner immediately before the relevant commencement, and
 - (c) is subject to paragraph 1 of Schedule 2 to the PPVA 1981 (grounds for dismissal), as amended by section 4, as from the coming into force of that amendment.

(5) In this section—

“acting traffic commissioner” means a person appointed under paragraph 6 of Schedule 2 to the PPVA 1981 to act as a traffic commissioner for a traffic area;

“deputy traffic commissioner” means a person appointed under paragraph 3 or 4 of Schedule 2 to the PPVA 1981 to act as deputy to a traffic commissioner for a traffic area;

“existing traffic commissioner” means a person—

- (a) who is a traffic commissioner for a traffic area immediately before the relevant commencement, and
- (b) who would, apart from the amendments made by this Act, have continued as such after the relevant commencement;

“the relevant commencement” means—

- (a) in relation to an existing traffic commissioner, the coming into force of the substitution of subsections (1) and (2) of section 4 of the PPVA 1981 effected by section 2;
- (b) in relation to a deputy traffic commissioner for a traffic area in England and Wales, the coming into force of paragraph 2A of Schedule 2 to the PPVA 1981 (which is inserted by section 4);
- (c) in relation to an acting traffic commissioner for a traffic area in England and Wales, the coming into force of paragraph 5A of Schedule 2 to the PPVA 1981 (which is inserted by section 4).

6 Consequential amendments

- (1) The Secretary of State may by order make such provision as the Secretary of State may consider necessary or expedient for the purposes of, or in consequence of, or for giving full effect to, any amendment made by sections 2 to 5.
- (2) The power conferred by subsection (1) includes—
 - (a) power to make different provision for different cases or for different areas, and
 - (b) power to make incidental, consequential, supplemental, or transitional provision, and savings.
- (3) The powers conferred by subsections (1) and (2) include power to amend or modify any provision of this Act or any other enactment (whenever passed or made) for the purpose of making any such provision, or any such saving, as is mentioned in either of those subsections.
- (4) The only provision that may be made by an order under this section in relation to Scotland is provision relating to reserved matters within the meaning of the Scotland Act 1998 (c. 46).
- (5) The power to make an order under this section is exercisable by statutory instrument.
- (6) A statutory instrument containing an order under this section may not be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.