



# Local Transport Act 2008

## 2008 CHAPTER 26

### PART 1

#### THE TRAFFIC COMMISSIONERS

### 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.
- (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

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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 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 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;

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- (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),
 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).