

SCHEDULES

SCHEDULE 30

Section 40

TRAFFIC REGULATION

Traffic authority to consult Secretary of State before making traffic regulation order

- 1 (1) This paragraph applies where—
 - (a) the traffic authority for a relevant road is a person other than the Secretary of State,
 - (b) the authority proposes to make a traffic regulation order in relation to the road, and
 - (c) it appears to the authority that provision made by the order could significantly interfere with the use of the road by heavy commercial vehicles for the purposes of the construction of the works authorised by this Act.
 - (2) Before making the order, the authority must consult the Secretary of State (in addition to any other person the authority is required to consult under or by virtue of Part 3 of Schedule 9 to RTRA 1984).
 - (3) In this paragraph—
 - “heavy commercial vehicle” has the same meaning as in RTRA 1984 (see section 138 of that Act);
 - “relevant road” means a road, other than a special road or trunk road, which falls within one or more of the following paragraphs—
 - (a) a road which is part of a route identified in a deposited statement as a construction traffic route;
 - (b) a road which is part of a route in relation to which approval has been given under paragraph 6 of Schedule 17 (routes for transportation by large goods vehicles);
 - (c) where a request for approval under paragraph 6 of Schedule 17 has been made but not determined, a road which is part of a route to which the request for approval relates;
 - (d) a road any part of which is within the Act limits.
 - (4) For the purposes of the definition of “relevant road”, “special road” and “trunk road” have the same meaning as in the Highways Act 1980.
- 2 (1) The Secretary of State may by notice designate—
 - (a) a road, or part of a road, in relation to which paragraph 1(2) does not apply;
 - (b) a description of traffic regulation orders in relation to which paragraph 1(2) does not apply.
 - (2) A notice under sub-paragraph (1)(a) has effect until further notice.
 - (3) The Secretary of State must give a notice under sub-paragraph (1)(a) to the traffic authority for the road (or part of the road) to which the notice relates.

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- (4) A notice under sub-paragraph (1)(b) may have effect generally or in relation to areas specified in the notice.
 - (5) The Secretary of State must give a notice under sub-paragraph (1)(b) to every traffic authority which would be affected by the notice.
 - (6) Failure by a traffic authority to comply with paragraph 1(2) in relation to a traffic regulation order does not affect the validity of the order.
- 3
- (1) Paragraph 1(2) ceases to apply in relation to a traffic authority if the Secretary of State gives the authority a notice stating that—
 - (a) no further works are proposed to be constructed under this Act in the authority’s area, and
 - (b) the use of relevant roads in the authority’s area is no longer required by heavy commercial vehicles for the purposes of the construction of the works authorised by this Act.
 - (2) Paragraph 1(2) ceases to apply in relation to a particular part of the area of a traffic authority (“the relevant part”) if—
 - (a) the Secretary of State reasonably considers that the relevant part can be treated separately from the rest of the authority’s area for the purposes of paragraph 1(2), and
 - (b) the Secretary of State gives the authority a notice stating that—
 - (i) no further works are proposed to be constructed under this Act in the relevant part, and
 - (ii) the use of relevant roads in the relevant part is no longer required by heavy commercial vehicles for the purposes of the construction of the works authorised by this Act.
 - (3) The Secretary of State must give a traffic authority a notice under sub-paragraph (1) or (2) as soon as reasonably practicable after the Secretary of State forms the view that the applicable requirements are met.
 - (4) For the purposes of sub-paragraph (3), the applicable requirements are met—
 - (a) in a sub-paragraph (1) case, if sub-paragraph (1)(a) and (b) apply in relation to the authority’s area, and
 - (b) in a sub-paragraph (2) case, if sub-paragraph (2)(b)(i) and (ii) apply in relation to the relevant part.
 - (5) In this paragraph, “heavy commercial vehicle” and “relevant road” have the same meaning as in paragraph 1.

Power of Secretary of State to direct traffic authority to make traffic regulation order

- 4
- (1) The Secretary of State may give a direction to a traffic authority requiring the authority to make a traffic regulation order if the Secretary of State considers that the making of such an order is—
 - (a) necessary for the purposes of the timely, efficient and cost-effective construction of the works authorised by this Act, and
 - (b) reasonable in the circumstances.
 - (2) Paragraph 1(2) does not apply (if it otherwise would) to the making of a traffic regulation order in pursuance of a direction under this paragraph.

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- (3) Where a traffic authority makes a traffic regulation order in pursuance of a direction under this paragraph (a “relevant order”), the authority may not without the Secretary of State’s consent make a further traffic regulation order which contains—
 - (a) provision varying or revoking the relevant order, or
 - (b) provision as respects any length of road for any purpose where—
 - (i) an order has been made as respects that length of road for a similar purpose, and
 - (ii) that order has been varied or revoked by the relevant order.
 - (4) The power to give a direction under this paragraph includes power to vary or revoke a previous direction given under this paragraph.
- 5
 - (1) This paragraph applies where, in pursuance of a direction under paragraph 4, a traffic authority is required to make an order under section 1 or 9 of RTRA 1984.
 - (2) The order is to be treated for the purposes of Part 3 and paragraph 28 of Schedule 9 to RTRA 1984, and regulations made under Part 3 of that Schedule, as if it were required to be made in pursuance of a direction under paragraph 2 of that Schedule.
 - (3) The provisions mentioned in sub-paragraph (2) have effect accordingly, but as if—
 - (a) paragraph 26(1) of Schedule 9 to RTRA 1984 (which requires the Secretary of State to take account of objections) were omitted,
 - (b) for the purposes of the application of paragraph 28 of Schedule 9 to RTRA 1984 (provision about the variation or revocation of certain orders)—
 - (i) the reference in that paragraph to Part 2 of that Schedule included a reference to paragraph 4(3) of this Schedule, and
 - (ii) any reference in that Part to paragraph 13(1)(e) and (f) of that Schedule were read instead as a reference to paragraph 4(3) of this Schedule, and
 - (c) any provision in regulations made under Part 3 of Schedule 9 to RTRA 1984 relating to the holding of a public inquiry were omitted.
 - (4) Paragraph 35 of Schedule 9 to RTRA 1984 (provision for questioning validity of orders) has effect, in its application to the order, as if—
 - (a) the reference in sub-paragraph (a) to the relevant powers were to those powers as they apply in the case of an order made in pursuance of a direction under paragraph 4 above, and
 - (b) the reference in sub-paragraph (b) to the relevant requirements were to those requirements as modified by sub-paragraph (3) above.
- 6
 - (1) This paragraph applies where, in pursuance of a direction under paragraph 4, a traffic authority is required to make an order under section 14 of RTRA 1984.
 - (2) Section 15 of RTRA 1984 (duration of orders under section 14) does not apply to the order.
 - (3) The order has effect for the period specified or described in the direction.
 - (4) The period specified or described by virtue of sub-paragraph (3) must be such as the Secretary of State considers is reasonable for the purposes of the construction of the works authorised by this Act.

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Further powers of Secretary of State (including in relation to variation or revocation of orders)

- 7 (1) The Secretary of State may direct a traffic authority to revoke a traffic regulation order made by the authority in pursuance of a direction under paragraph 4.
- (2) The Secretary of State may direct a traffic authority to vary a traffic regulation order made by the authority in pursuance of a direction under paragraph 4, where—
- (a) the Secretary of State considers that the variation is—
 - (i) necessary for the purposes of the timely, efficient and cost-effective construction of the works authorised by this Act, and
 - (ii) reasonable in the circumstances, or
 - (b) the effect of the variation is to remove or relax a restriction imposed by the order on the use of any road.
- 8 (1) Where a traffic authority fails to comply with a direction under paragraph 4, the Secretary of State may make the traffic regulation order required by the direction.
- (2) Where a traffic authority fails to comply with a direction under paragraph 7, the Secretary of State may by order vary or revoke the traffic regulation order (as required by the direction).
- 9 (1) The Secretary of State may by order made by statutory instrument vary or revoke a traffic regulation order (whenever made) if the Secretary of State considers the variation or revocation—
- (a) necessary for the purposes of the timely, efficient and cost-effective construction of the works authorised by this Act, and
 - (b) reasonable in the circumstances.
- (2) This paragraph has effect without prejudice to the powers conferred on the Secretary of State by paragraphs 7 and 8.
- 10 (1) This paragraph applies to an order under paragraph 8 or 9.
- (2) Paragraph 4 of Schedule 9 to RTRA 1984 (reserve powers of Secretary of State, including power to recover expenses) applies to the order as it applies to an order made by virtue of paragraph 3 of that Schedule.
- (3) Parts 3 and 4 of Schedule 9 to RTRA 1984, and regulations made under paragraph 24 of that Schedule, apply to the order as they apply to an order made by virtue of the relevant paragraph of that Schedule, but as if—
- (a) any provision in the regulations relating to the holding of a public inquiry were omitted, and
 - (b) for the purposes of the application of paragraph 28 of that Schedule (provision about the variation or revocation of certain orders)—
 - (i) the reference in that paragraph to Part 2 of that Schedule included a reference to paragraph 10(5) of this Schedule, and
 - (ii) any reference in that Part to paragraph 13(1)(e) and (f) of that Schedule were read instead as a reference to paragraph 10(5) of this Schedule.
- (4) For the purposes of sub-paragraph (3), “the relevant paragraph” of Schedule 9 to RTRA 1984 is—
- (a) in the case of an order under paragraph 8 of this Schedule, paragraph 3 of that Schedule, and

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- (b) in the case of an order under paragraph 9 of this Schedule, paragraph 7 of that Schedule.
- (5) Where the Secretary of State makes an order to which this paragraph applies, the relevant authority may not without the Secretary of State's consent make a further traffic regulation order which contains—
- (a) provision varying or revoking the Secretary of State's order, or
 - (b) provision as respects any length of road for any purpose where—
 - (i) an order has been made as respects that length of road for a similar purpose, and
 - (ii) that order has been varied or revoked by the Secretary of State's order.
- (6) Paragraph 16 of Schedule 9 to RTRA 1984 (powers of Secretary of State where an order is submitted for consent) applies for the purposes of sub-paragraph (5) as if the further traffic regulation order had been submitted for consent under Part 2 of that Schedule.

Power to restrict traffic authority from making or implementing traffic regulation order

- 11 (1) The Secretary of State may give a direction to a traffic authority prohibiting the authority from making or bringing into operation a traffic regulation order (whenever made) if the Secretary of State considers that such an order could significantly interfere with the use of any road for the purposes of the construction of the works authorised by this Act.
- (2) A prohibition imposed by virtue of this paragraph may be expressed—
- (a) so as to have effect generally or for a period specified in the direction;
 - (b) so as to prohibit the making or bringing into operation of a traffic regulation order without the Secretary of State's consent.
- (3) The power to give a direction under this paragraph includes power to vary or revoke a previous direction given under this paragraph.

Consultation requirements applicable to Secretary of State

- 12 (1) The Secretary of State must consult a traffic authority—
- (a) before giving a direction to the authority under paragraph 4, 7 or 11, or
 - (b) before making an order under paragraph 8(2) or 9 in relation to a traffic regulation order made by the authority.
- (2) The purpose of consultation is—
- (a) to ensure public safety and, so far as reasonably practicable, to reduce public inconvenience, and
 - (b) to take account of the requirements (however expressed) to which the traffic authority is subject under an enactment or under an agreement or undertaking entered into in pursuance of an enactment.

Guidance

- 13 (1) The Secretary of State must prepare a statement setting out, in general terms—

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- (a) guidance in connection with the duty under paragraph 1(2) (which requires a traffic authority to consult the Secretary of State before making a traffic regulation order), and
 - (b) how the Secretary of State proposes to exercise the powers conferred on the Secretary of State by the preceding provisions of this Schedule.
- (2) The Secretary of State may from time to time revise the statement.
- (3) In preparing or revising the statement, the Secretary of State must consult—
- (a) the nominated undertaker, and
 - (b) those traffic authorities which the Secretary of State considers are likely to be subject to the duty under paragraph 1(2) or to be affected by the exercise of the powers mentioned in sub-paragraph (1)(b) (or both).

Removal of vehicles

- 14 (1) An authorised person may remove a vehicle, or arrange for its removal, where conditions 1 and 2 are met.
- (2) Condition 1 is that the vehicle has been permitted to remain at rest, or has broken down and remained at rest—
- (a) on any road in contravention of a prohibition or restriction imposed by a traffic regulation order, or
 - (b) on any road which is stopped up under paragraph 2 or 8 of Schedule 4.
- (3) Condition 2 is that it appears to the authorised person that the vehicle is likely, if it is not removed—
- (a) to obstruct the carrying out of any of the works authorised by this Act, or
 - (b) to be at risk of being damaged in consequence of the doing of anything for the purposes of the construction of the works authorised by this Act.
- (4) References in sub-paragraphs (1) and (3) to the removal of a vehicle are to its removal to another position on the road in question or to another road.
- (5) Before exercising the power under sub-paragraph (1), an authorised person must give notice to—
- (a) the local authority (as defined by section 100(5) of RTRA 1984) in whose area the vehicle is situated, and
 - (b) the chief officer of the police force in whose area the vehicle is situated.
- (6) A person removing a vehicle under or by virtue of sub-paragraph (1) may do so—
- (a) by towing or driving the vehicle, or
 - (b) in such other manner as the person thinks necessary,
- and may take such measures in relation to the vehicle as the person thinks necessary to enable its removal.
- (7) This paragraph is without prejudice to provision made by regulations under section 99 of RTRA 1984.
- (8) In this paragraph—
- “authorised person” means a person authorised by the nominated undertaker for the purposes of this paragraph;
 - “vehicle” has the same meaning as in section 99 of RTRA 1984.

Interpretation

15 In this Schedule—

“road” has the same meaning as in RTRA 1984 (see section 142(1) of that Act);

“RTRA 1984” means the Road Traffic Regulation Act 1984;

“traffic authority” has the same meaning as in RTRA 1984 (see section 121A of that Act);

“traffic regulation order” means an order under section 1, 9 or 14 of RTRA 1984.