



# Traffic Management Act 2004

## 2004 CHAPTER 18

### PART 2

#### NETWORK MANAGEMENT BY LOCAL TRAFFIC AUTHORITIES

##### *Enforcement of network management duties*

#### **20 Intervention notices**

- (1) If the appropriate national authority considers that a local traffic authority may be failing properly to perform any of their duties under sections 16 and 17 it may give a notice stating that it is of that opinion (an “intervention notice”) to the authority.
- (2) An intervention notice must—
  - (a) give brief particulars of the grounds for giving the notice; and
  - (b) offer the local traffic authority the opportunity (within a specified period) to make representations or proposals about any matter raised by the notice.
- (3) The notice may also require the local traffic authority to provide the national authority, within the period specified under subsection (2)(b), with specified information.
- (4) Any information specified in the notice must be information that the national authority considers will assist it in deciding what further action (if any) to take.
- (5) The Secretary of State shall consult the Mayor before giving an intervention notice to a London authority and, if such a notice is given, shall give him a copy of it.

#### **21 Intervention orders**

- (1) If the appropriate national authority is satisfied that a local traffic authority are failing properly to perform any duty under sections 16 and 17 it may, by order made by statutory instrument (an “intervention order”), make provision for or in connection with the appointment of a traffic director.

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- (2) In this Part “traffic director” means a person appointed by the national authority with such objectives as the national authority considers will secure that the duty in question is properly performed.
- (3) An intervention order providing for the appointment of a traffic director must (among other things)—
- (a) state that the national authority is satisfied as mentioned in subsection (1);
  - (b) give brief particulars of the grounds for appointing a traffic director;
  - (c) set out the objectives of the traffic director; and
  - (d) confer such general powers on the traffic director as the national authority considers appropriate for achieving those objectives.
- (4) But such an order may not be made unless—
- (a) reasonable notice of the grounds for appointing a traffic director has been given to the local traffic authority in an intervention notice; and
  - (b) the period specified in the notice under section 20(2)(b) has expired;
- but if that period has expired an order may be made whether or not the local traffic authority have complied with any requirements specified under section 20(3).
- (5) The general powers which may be conferred on the traffic director are powers authorising him—
- (a) to monitor any matter;
  - (b) to report on any matter;
  - (c) to intervene in activities of the local traffic authority; and
  - (d) to carry out functions of the local traffic authority.
- The general powers are explained further in sections 23 to 25.
- (6) The order may require the traffic director to carry out functions of the local traffic authority.
- (7) The order may—
- (a) limit the scope of any general powers conferred on the traffic director or any duty imposed under subsection (6);
  - (b) confer ancillary powers on the traffic director;
  - (c) provide for the circumstances in which any general or ancillary power may (or may not) be exercised;
  - (d) impose conditions on the exercise of any general or ancillary power;
  - (e) make incidental or supplementary provision;
  - (f) make different provision for different circumstances.
- (8) For the purposes of subsection (7) “ancillary power” means a power to do anything calculated to facilitate (or to be conducive or incidental to)—
- (a) the exercise by the traffic director of his general powers; or
  - (b) the performance of any duty imposed on him under subsection (6),
- including, in particular, power to require the local traffic authority to provide him with information and assistance.
- (9) The appropriate national authority shall consult the local traffic authority before making an intervention order which makes further provision in connection with the appointment of a traffic director under an earlier intervention order.

- (10) The Secretary of State shall consult the Mayor before making an intervention order in relation to a London authority.

## **22 Appointment of traffic director: supplementary**

- (1) Where by virtue of an intervention order a traffic director is to be appointed in relation to a local traffic authority—
- (a) any person (including the national authority making the order, another local traffic authority, a Passenger Transport Executive or any other public authority) may be appointed;
  - (b) the appointment may be made on such terms as that national authority may consider appropriate; and
  - (c) the appointment may be revoked by that national authority.
- (2) The powers conferred by subsection (1) have effect subject to the provisions of the order.
- (3) Notice of any appointment of a traffic director (or the revocation of an appointment) shall be given to the local traffic authority and, in the case of a London authority, to the Mayor.
- (4) Any such notice of an appointment must be given before the traffic director begins to carry out any of his duties.

## **23 Monitoring and reporting**

- (1) The general powers which may be conferred by an intervention order under section 21(5)(a) are powers to monitor anything connected with the performance by the local traffic authority of their duties under 16 and 17, including the use of their road network by different kinds of traffic or the effects of that use.
- (2) The general powers which may be conferred by an intervention order under section 21(5)(b) are powers to make reports about—
- (a) anything connected with the carrying out of the traffic director's objectives; or
  - (b) anything connected with the performance by the local traffic authority of their duties under sections 16 and 17, including the use of their road network by different kinds of traffic or the effects of that use.
- (3) The order may provide for such reports to be made to the appropriate national authority or the local traffic authority (or both).

## **24 Intervention in activities of local traffic authority**

- (1) This section explains the general powers which may be conferred by an intervention order under section 21(5)(c).
- (2) Such powers may authorise the traffic director to give to the local traffic authority directions with respect to the exercise of any specified function, including in particular directions—
- (a) to exercise (or to cease or refrain from exercising) such a function;
  - (b) as to the way in which such a function is (or is not) to be exercised;
  - (c) as to the policies to be adopted in the exercise of any function.

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- (3) The order may specify any function of the authority (whether or not conferred in their capacity as a traffic authority) the exercise of which appears to the appropriate national authority to be capable of contributing to, or interfering with, the achievement of the traffic director's objectives.
- (4) Such powers may also authorise the traffic director, where it appears to him that the authority has failed to comply with a direction—
  - (a) to take any steps which still remain to be taken by the authority to comply with the direction, and
  - (b) recover from the authority as a civil debt the costs reasonably incurred by him in taking those steps.
- (5) Anything done by the traffic director under subsection (4)(a) is to be treated as having been done by the authority.

## **25 Exercise of local traffic authority functions**

- (1) This section explains the general powers which may be conferred by an intervention order under section 21(5)(d) and the duty which may be imposed under section 21(6).
- (2) The order may authorise or require the traffic director to take over from the authority the exercise of any specified function.
- (3) The order may specify any function of the authority (whether or not conferred in their capacity as a traffic authority) the exercise of which appears to the appropriate national authority to be capable of contributing to, or interfering with, the achievement of the traffic director's objectives.
- (4) The order may require the authority to take action—
  - (a) to co-ordinate their activities with those of the traffic director in the exercise of functions specified under subsection (2);
  - (b) to co-operate with the traffic director in the exercise of such functions.
- (5) Anything done by the traffic director in the exercise of a specified function is to be treated as having been done by the authority.

## **26 Application of sections 20 to 25 to local traffic authorities exercising functions jointly**

- (1) The appropriate national authority may by order made by statutory instrument make provision for the application of sections 20 to 25 (with or without modifications) in cases where to any extent the performance of the duties under sections 16 and 17 is carried out jointly by two or more local traffic authorities.
- (2) A statutory instrument containing an order under this section made by the Secretary of State is subject to annulment in pursuance of a resolution by either House of Parliament.

## **27 Criteria for making intervention orders**

- (1) The appropriate national authority shall give, in accordance with subsection (2), guidance about the criteria which it proposes to apply for the purpose of deciding whether to give an intervention notice or make an intervention order.

- (2) The guidance shall be appended to an order made by the authority by statutory instrument.
- (3) A statutory instrument containing an order under subsection (2) made by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.

## **28 Guidance to traffic directors**

- (1) The appropriate national authority may give guidance to traffic directors in relation to the performance of their duties.
- (2) Such guidance may be general or given to a particular traffic director.
- (3) In carrying out his duties a traffic director shall have regard to any guidance under this section which is applicable to him.
- (4) The appropriate national authority shall publish any guidance given under this section.

## **29 Traffic directors in London**

- (1) Subsections (2) to (4) apply where a traffic director is appointed in relation to a London authority.
- (2) A copy of any report made by a traffic director to the authority shall be given to the Mayor.
- (3) In carrying out his duties the traffic director need not comply with, or have regard to, any directions or guidance given by the Mayor under Part 4 of the Greater London Authority Act 1999 (c. 29).
- (4) The duty to comply with a direction given by the traffic director prevails, to the extent of any inconsistency, over the duty to comply with, or have regard to, any direction or guidance mentioned in subsection (3).
- (5) Subsections (6) to (8) apply where a traffic director is appointed in relation to Transport for London.
- (6) If the traffic director—
  - (a) exercises the power of Transport for London under subsection (3) of section 301A of the Highways Act 1980 (c. 66) to object to a proposal and does not withdraw that objection, or
  - (b) directs Transport for London to exercise the power to object to a proposal and not to withdraw the objection,that section has effect as if subsections (3)(d) and (4) were omitted.
- (7) If the traffic director—
  - (a) exercises the power of Transport for London under subsection (3) of section 121B of the Road Traffic Regulation Act 1984 (c. 27) to object to a proposal and does not withdraw that objection, or
  - (b) directs Transport for London to exercise the power to object to a proposal and not to withdraw the objection,that section has effect as if subsections (3)(d) and (4) were omitted.

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- (8) While the intervention order to which the appointment relates is in force the Mayor may not, without the consent of the traffic director, issue a direction under—
- (a) section 301A(9) of the Highways Act 1980, or
  - (b) section 121B(9) of the Road Traffic Regulation Act 1984,
- dispensing with any of the requirements mentioned there (whether or not by varying an existing direction).

### **30 Recovery of costs from local traffic authorities**

- (1) This section applies where a traffic director has been appointed in respect of a local traffic authority.
- (2) The appropriate national authority may recover from the local traffic authority such sum or sums as it may consider appropriate.
- (3) The amount recovered must not exceed the total expenditure of the national authority which is attributable to the appointment of the traffic director (including expenditure towards any costs incurred by the traffic director which are not met from any other source).

### **31 Interpretation of Part 2**

In this Part—

- “appropriate national authority” means—
- (a) the Secretary of State, as respects England; and
  - (b) the National Assembly for Wales, as respects Wales;
- “intervention notice” means a notice under section 20;
- “intervention order” means an order under section 21;
- “local traffic authority” means a traffic authority other than the Secretary of State or the National Assembly for Wales;
- “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;
- “road” means any length of highway or of any other road to which the public has access, and includes bridges over which a road passes;
- “road network”, in relation to a local traffic authority, means the network of roads for which the authority is the traffic authority;
- “traffic” includes pedestrians;
- “traffic authority” has the same meaning as in the Road Traffic Regulation Act 1984 (c. 27);
- “network management duty” has the meaning given in section 16(3).