WELSH STATUTORY INSTRUMENTS

2007 No. 1712 (W.149)

HIGHWAYS, WALES

The Traffic Management (Guidance on Intervention Criteria) (Wales) Order 2007

Made - - - -	*13 June 2007*
Laid before the National Assembly for Wales - -	*14 June 2007*
Coming into force - -	*10 July 2007*

The Welsh Ministers, in exercise of the powers conferred on the National Assembly for Wales by section 27 of the Traffic Management Act 2004(**1**) and now vested in them(**2**), make the following order:

Title, commencement and application

1. The title of this Order is the Traffic Management (Guidance on Intervention Criteria) (Wales) Order 2007, it comes into force on 10 July 2007, and applies in relation to Wales(**3**).

Guidance on intervention criteria

2. The guidance about the criteria which the Welsh Ministers propose to apply for the purpose of deciding whether to give an intervention notice or make an intervention order under Part 2 of the Traffic Management Act 2004 is appended in the Schedule to this order.

Brian Gibbons
13 June 2007 — Minister for the Economy and Transport

(**1**) 2004 c. 18.
(**2**) By virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.
(**3**) *See* definition of "appropriate national authority" in section 31 of the Traffic Management Act 2004.

SCHEDULE Article 2

TRAFFIC MANAGEMENT ACT 2004 NETWORK MANAGEMENT DUTIES GUIDANCE ON INTERVENTION CRITERIA FOR WALES

INTRODUCTION

1. Section 16 of the Traffic Management Act 2004 ("the Act") introduced a new network management duty for local traffic authorities. Such authorities are required to manage their road network to secure the expeditious movement of traffic on that network and to facilitate the same on the networks of others.

2. Section 17 of the Act requires a local traffic authority ("an authority") to make appropriate arrangements for planning and carrying out the duty and these arrangements must include provision for the appointment of a traffic manager.

3. Section 19 empowers the Welsh Ministers to direct an authority to provide them, within a specified period, with information connected with any aspect of the performance of its duties under sections 16 and 17.

4. Section 20 enables the Welsh Ministers to give an "intervention notice" to an authority if they consider that the authority may be failing to properly perform any of its duties under sections 16 and 17.

5. Section 21 empowers the Welsh Ministers to make an "intervention order" making provision for or in connection with the appointment of a traffic director if they are satisfied that an authority is failing to properly perform any duty under those sections.

6. The intervention notice is the first formal stage in the enforcement of the network management duties. It will give brief particulars of the grounds for giving the notice, offer the authority the opportunity to make representations or proposals and may require the authority to provide certain information.

7. Further action may not be necessary, but if it is, intervention in the strictest sense will occur when provision is made by way of an intervention order for or in connection with the appointment of a traffic director. The traffic director will be given such objectives and powers as the Welsh Ministers consider will secure the proper performance of the duty in question. Section 21(5) sets out the general powers which may be conferred on a traffic director and these will allow him or her to monitor and report on any matter, intervene in activities of an authority and carry out any of its functions.

8. In November 2006 the National Assembly for Wales(**4**) published guidance under section 18 of the Act entitled "*Network Management Duty Guidance*". This sets out in more detail, guidance about the techniques of network management and other matters relating to the performance of the duties imposed by sections 16 and 17. In particular Annex A to the guidance, which is headed "*Good Practice Advice on Techniques and Approach*", describes how an authority may achieve effective improvements to the management of road networks. In performing the duties under sections 16 and 17, authorities must have regard to this guidance.

9. Section 27 of the Act requires the Welsh Ministers, as the appropriate national authority as respects Wales(**4**), to give guidance about the criteria they propose to apply for the purpose of deciding whether to give an intervention notice or make an intervention order and to append that guidance to an order made by statutory instrument. This Schedule sets out that guidance which

(**4**) Functions of the National Assembly for Wales under the Traffic Management Act 2004 now vested in the "Welsh Ministers" by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

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applies in relation to all authorities in Wales. It should be read in conjunction with the **Network Management Duty Guidance** and Part 2 of the Act.

THE CONTEXT

10. Efficient movement on our road networks is essential for both society and a successful economy. A number of shared priorities have been agreed which provide a focus for central and local government in terms of improving public services and, in relation to transport, reducing the problems of congestion. If network issues need to be addressed, central and local government can work together, in their respective roles, to deliver policies and programmes that are effective in managing or mitigating the impacts of congestion at local level.

11. The Act itself, which is seen as a spur for the better management of the road network, provides a built-in opportunity for engagement and recovery, by enabling an authority to work together with the Welsh Ministers, at an early stage, with the aim of making improvements. Making an intervention order to appoint a traffic director will be a situation reached only after serious efforts have been made to raise the standard of an authority that may not be properly managing its road network.

12. It is hoped that the potential for intervention will encourage authorities to ensure that they carry out their network management duties. Nevertheless, if concerns develop that an authority may not be addressing the duties imposed by sections 16 and 17 of the Act, the Welsh Ministers intend to work with that authority, through an engagement process, to encourage the authority to recover so as to avoid reaching the stage where a traffic director has to be appointed. However, if it becomes clear that recovery is not being achieved, or is not an option, to the extent that they are satisfied that an authority is failing properly to perform any duty, they may make an intervention order making provision for or in connection with the appointment of a traffic director.

FUNDAMENTAL PRINCIPLES

13. The network management duty, as set out in section 16 of the Act, is qualified to the extent that each authority has other obligations, policies and objectives which they must also address. Accordingly, the duty should not take precedence over everything else that they do. The Welsh Ministers recognise that all authorities face different challenges and have their own obligations, policies and objectives which will have to be taken into account when performing the duty. In addition, in assessing an individual authority's performance, they will also consider its approach to the duty within the wider circumstances in which traffic presents itself on its network. The sort of circumstances envisaged could be projects involving economic regeneration, house building or special events. The Welsh Ministers will not expect every authority to approach the duty in exactly the same way.

14. Under the Act, it is for individual authorities to determine how they will frame the duty within the broader range of their responsibilities. For example, it should not undermine an authority's road safety objectives. Indeed, authorities should plan for both the expeditious and safe movement of all traffic, including pedestrians and cyclists. Each authority should set their own objectives for the expeditious movement of traffic within the context of their other obligations, policies and objectives.

15. By virtue of section 17 of the Act, an authority must make such arrangements as it considers appropriate for planning and carrying out the action to be taken in performing the network management duty. These arrangements must be put in place, regardless of the authority's other obligations, policies and objectives, and must include provision for a number of matters specified in that section and their effectiveness must be kept under review.

16. Each authority should aim to show that their approach to securing the expeditious movement of traffic, both on their own network and the networks of others, is challenging but realistic. The Welsh Ministers will be looking for all authorities to demonstrate a robust strategy which integrates

with their other responsibilities and has been adopted wherever it is relevant throughout their organisation.

17. In terms of priorities for keeping the network moving efficiently, the same level of activity is not expected in relation to every road in an authority's area. Authorities need not concentrate on roads where there is relatively little traffic movement and where this is unlikely to change in the foreseeable future. However, they should know which of their roads fall into this category and which roads are important for the movement of people and goods. Authorities should pay careful attention to the latter category by, for example, facilitating the efficient movement of traffic on key public transport routes and ensuring that the operation of any bus priority measures (such as bus lanes) is subject to minimal disruption.

THE NETWORK MANAGEMENT DUTIES

18.—(1) The network management duties are as set out in sections 16 and 17 of the Act and for the purposes of determining the nature and extent of each duty, reliance should only be placed on the precise wording of the legislation. However it may assist to explore the duties in more detail and accordingly they are set out as follows in a slightly expanded format.

(2) Under section 16 (the network management duty), an authority must manage its road network with a view to achieving two objectives, so far as may be reasonably practicable having regard to its other obligations, policies and objectives. These two objectives are—

(a) to secure the expeditious movement of traffic on that network, and

(b) to facilitate the expeditious movement of traffic on road networks for which another authority is the traffic authority.

(3) Section 17 (arrangements for network management) sets out a number of additional duties for an authority which are single duties for the purposes of sections 20 and 21 but which nevertheless underpin the main duty under section 16. These are more particularly set out in the following sub-paragraphs.

(4) An authority has a duty to make such arrangements as it considers appropriate for-

(a) planning the action to be taken in performing the network management duty, and

(b) carrying out that action.

(5) An authority has a duty to ensure that these arrangements include provision for the appointment of a traffic manager.

(6) An authority has a duty to ensure that the arrangements also include provision for establishing processes for ensuring (so far as may be reasonably practicable) that it—

(a) identifies things which are causing—

(i) road congestion on its road network, or

(ii) other disruption to the movement of traffic on that network;

(b) identifies things (including future occurrences) which have the potential to cause—

(i) road congestion on its road network, or

(ii) other disruption to the movement of traffic on that network; and

(c) considers any possible action that could be taken—

(i) in response to, or

(ii) in anticipation of,

anything so identified,

but this does not require the identification or consideration of anything appearing to have only an insignificant effect (or potential effect) on the movement of traffic on its network.

(7) An authority has a duty to ensure that the arrangements also include provision for ensuring that it—

(a) determines specific policies or objectives in relation to—

(i) different roads in its road network, or

(ii) different classes of road in that network;

(b) monitors the effectiveness of—

(i) its organisation,

(ii) its decision making processes, and

(iii) the implementation of its decisions; and

(c) assesses its performance in managing its network.

(8) An authority has a further duty to keep under review the effectiveness of the arrangements it has in place under section 17 of the Act.

PROCESSES AND OUTCOMES

19. Section 17 of the Act focuses on the importance of making arrangements for network management. The emphasis on process reflects the fact that management of the road network is not something that an authority should simply add on to its existing operations, but should integrate seamlessly within its wider arrangements to tackle congestion.

20. Moreover, it is not always possible to identify direct links between individual actions by an authority through the arrangements and processes it has in place and the outcomes of these actions in terms of network performance. In some cases the results might have been worse but for the actions of an authority, while in others, events will have been entirely beyond its control. In any event, an authority should have the arrangements and the review in place, as required under section 17.

21. When Part 2 of the Act came into effect, the first steps were to set up arrangements for developing the duties. Attention in this initial phase has been placed on whether an authority has established the arrangements and review required under section 17. These are always required, regardless of local circumstances.

22. However, the Act indicates that authorities may take any action to avoid, eliminate or reduce congestion or other disruption to movement on the network. Such action may involve the exercise of any power to regulate or coordinate the uses made of any road (or part of a road) in the road network (whether or not the power was conferred on them in their capacity as a traffic authority). It is the outcomes of the action taken that are important in the longer term, especially as performance indicators become agreed and adopted more widely. Authorities should make every effort to focus on taking new action as required, adopting appropriate performance indicators, whether developed centrally or locally and on improving the outcomes as quickly as circumstances allow.

23. The core of the duty is for authorities to manage their network better by tackling road congestion. This is important in large urban areas and many other locations also. In order to demonstrate performance and improvements, authorities should adopt the mandatory indicators used in the Local / Regional Transport Plan process. Performance indicators are continually being developed centrally with advice from local government; for example, those associated with congestion. All authorities are expected to keep in step with national transport policies and centrally developed indicators as they are published. Authorities should adopt targets and indicators that show the full range of their performance against their network management duties. For some authorities this will mean that a number of their performance indicators will be determined locally.

24. The Welsh Ministers will expect to see evidence, within the reporting process, of authorities accomplishing their targets, or at least being on course to do so. However, it is recognised that even