Draft Order laid before Parliament under section 6(6) of the Local Transport Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No. 000

TRANSPORT

The Local Transport Act 2008 (Traffic Commissioners) (Consequential Amendments) Order 2013

Made - - - -	*2013*
Coming into force - -	*2013*

The Secretary of State makes the following Order in exercise of the powers conferred by section 6 of the Local Transport Act 2008 ("the 2008 Act")(**1**).

The Administrative Justice and Tribunals Council has been consulted and that Council has consulted the Scottish and Welsh Committees, in accordance with section 44 of, and paragraph 24 of Schedule 7 to, the Tribunals, Courts and Enforcement Act 2007(**2**).

In accordance with section 6(6) of the 2008 Act, a draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament.

Citation, commencement, extent and application

1.—(1) This Order may be cited as the Local Transport Act 2008 (Traffic Commissioners) (Consequential Amendments) Order 2013 and comes into force on the day after the day on which it is made.

(2) Articles 2 and 3 and Schedules 1 and 2 extend to England and Wales and Scotland (but see article 2 in relation to Scotland).

(3) The amendments contained in Schedule 1 and Schedule 2 have the same extent as the enactments amended, except that nothing extends to Northern Ireland (and see article 2 in relation to Scotland).

(4) Articles 4 to 6 and Schedules 3 to 6 extend to England and Wales only (but see paragraphs (5) and (6)).

(5) Article 5 and Schedule 5 apply to England only.

(**1**) 2008 c.26.

(**2**) 2007 c.15. Traffic Commissioners are a listed tribunal for the purposes of paragraph 24 of Schedule 7 by virtue of the Administrative Justice and Tribunals Council (Listed Tribunals) Order 2007 (S.I. 2007/2951) and the Administrative Justice and Tribunals Council (Listed Tribunals) (Scotland) Order 2007 (S.I. 2007/436). The "Scottish Committee", "Welsh Committee" and "procedural rules" are each defined in paragraph 28(1) of Schedule 7.

(6) Article 6 and Schedule 6 apply to Wales only.

Scotland

2. In their application in relation to Scotland, article 3 and Schedules 1 and 2 have effect only so far as relating to reserved matters, within the meaning of the Scotland Act 1998(**3**).

Amendments – England and Wales and Scotland

3. In the tables in Schedules 1 (primary legislation) and 2 (subordinate legislation) the provisions specified in column 1 of each Schedule are amended as specified in column 2 of that Schedule.

Amendments – England and Wales

4. In the tables in Schedules 3 (primary legislation) and 4 (subordinate legislation) the provisions specified in column 1 of each Schedule are amended as specified in column 2 of that Schedule.

Amendments – England

5. In the table in Schedule 5 (subordinate legislation) the provisions specified in column 1 of that Schedule are amended as specified in column 2 of that Schedule.

Amendments – Wales

6. In the table in Schedule 6 (subordinate legislation) the English and Welsh text of the provisions specified firstly in English and thereafter in Welsh in column 1 of that Schedule is amended as specified in English and Welsh respectively in column 2 of that Schedule.

Transitional provisions

7.—(1) Nothing in this Order affects the validity of anything done by a traffic commissioner before the date on which this Order comes into force.

(2) Anything which immediately before the date on which this Order comes into force is in the process of being done by, or in relation to, a traffic commissioner for a traffic area in England and Wales or Scotland may be continued by, or in relation to, any traffic commissioner for England and Wales or, as the case may be, the Scottish traffic commissioner.

(3) Any notice served, action taken or other thing done, before the date on which this Order comes into force, under or pursuant to any provision amended by this Order has effect on or after that date as though validly served, taken or done under or pursuant to that provision as amended by this Order.

(4) Any debt or liability of or due to a traffic commissioner for a traffic area which is due or outstanding immediately before the date on which this Order comes into force is to be treated as a debt or liability of or due to (as the case may be) the senior traffic commissioner.

(5) Without prejudice to the generality of paragraphs (2) to (4), those paragraphs apply in particular to—

(a) any decision or determination made by a traffic commissioner;

(b) any licence, permission, consent, approval, authorisation, exemption, dispensation or relaxation granted by a traffic commissioner;

(**3**) 1998 c.46. By virtue of subsection (4) of section 6 of the Local Transport Act 2008 the only provision that may be made by an order under that section in relation to Scotland is provision relating to reserved matters within the meaning of the Scotland Act 1998 ("the 1998 Act"). For "reserved matters" (in so far as relating to road transport) see Section E1 in Head E (transport) of Schedule 5 to the 1998 Act.

(c) any notice, direction or certificate given by or to a traffic commissioner;

(d) any application, request, proposal, representation or objection made to a traffic commissioner;

(e) any condition or requirement imposed by a traffic commissioner;

(f) any undertaking given to a traffic commissioner;

(g) any matter affecting fees;

(h) any appeal against a decision of a traffic commissioner and any order made on such an appeal;

(i) any appeal allowed or dismissed by a traffic commissioner;

(j) any proceedings instituted by or against a traffic commissioner.

(6) The first period ending on or after the date on which this Order comes into force for which annual reports are required to be made under section 55 of the Public Passenger Vehicles Act 1981(**4**) (annual report of traffic commissioners) is to be the period of one year immediately following the end of the last period, which ended before that date, in relation to which annual reports were required under that section.

(7) The annual reports which are made in relation to the first period ending on or after the date on which this Order comes into force are to cover all the proceedings of the reporting traffic commissioner during that period, whether as a traffic commissioner for a traffic area or as a traffic commissioner for England and Wales or, as the case may be, as the Scottish traffic commissioner.

Signed by authority of the Secretary of State for Transport

Parliamentary Under Secretary of State
Department for Transport

(**4**) 1981 c.14. Section 55 was amended by the Transport Act 1985 (c.67), section 3 and Schedule 2, Part 2, paragraph 4(15) and by S.I. 1984/31.

SCHEDULE 1 Article 3

Amendments extending to England and Wales and Scotland – Primary Legislation

The Transport Act 1968(5)

Provision	*Amendment*
section 96(**6**) (permitted driving time and periods of duty),	In subsection (10)(b), for "the traffic commissioner for any area", substitute "a traffic commissioner".
section 98(**7**) (written records),	In subsection (3), for "the traffic commissioner for any area", substitute "a traffic commissioner".
section 99(**8**) (inspection of records and other documents),	In subsection (8), for "the traffic commissioner for any area", substitute "a traffic commissioner".
section 103(**9**) (interpretation, supplementary provisions, etc. for Part VI).	In subsection (5), for "The traffic commissioner for any area", substitute "A traffic commissioner".

The Public Passenger Vehicles Act 1981(10)

Provision	*Amendment*
section 3(**11**) (traffic areas),	For subsection (3), substitute— "(3) An order under this section for varying the number or limits of traffic areas may contain such consequential and incidental provisions as appear to the Secretary of State to be necessary or expedient in consequence of the variations of areas to be affected by the order, including provisions— (a) as to the effect of licences previously issued, and consents previously given, by a traffic commissioner; (b) as to the effect of applications for licences or consents previously made to a traffic commissioner; (c) as to the continuance of appeals pending against decisions of a traffic commissioner; and (d) as to the recovery of any sums due to a traffic commissioner,

(**5**) **1968 c.73.**
(**6**) Section 96(10) was amended by the Transport Act 1985 (c.67), section 3 and Schedule 2, Part 2. There are other amendments to section 96 which are not relevant to this Order.
(**7**) Section 98(3) was amended by the Transport Act 1985, section 3 and Schedule 2, Part 2. There are other amendments to section 98 which are not relevant to this Order.
(**8**) Section 99(8) was amended by the Transport Act 1985, section 3 and Schedule 2, Part 2; the Road Traffic Act 1991 (c.40), section 48 and Schedule 4, paragraph 2 and S.I. 2005/1904, regulation 5(1) and (5)(a) and (b). There are other amendments to section 99 which are not relevant to this Order.
(**9**) Section 103(5) was amended by the Transport Act 1985, section 3 and Schedule 2, Part 2 and S.I. 1986/1458, regulation 3. There are other amendments to section 103 which are not relevant to this Order.
(**10**) **1981 c.14.**
(**11**) Section 3 was amended by the Local Transport Act 2008 (c.26), section 1 and the Transport Act 1985 (c.67), section 3(5) and Schedule 2, Part 2, paragraph 4(1) and (2).

Provision	*Amendment*
	in relation to any traffic area abolished or changed."
section 5(**12**) (publication of information by traffic commissioners),	In subsection (2), for the words from "Where the" to "Transport for London;", substitute— "(2) Where a traffic commissioner publishes information under this section he shall— (a) send a copy of the publication— (i) to every chief officer of police, Passenger Transport Executive and local authority whose area the traffic commissioner considers may be affected by the information; and (ii) if the traffic commissioner considers that the information may affect Greater London, to Transport for London;".
section 12(**13**) (PSV operators' licences),	For subsections (2) and (3), substitute— "(2) The authority having power to grant a PSV operator's licence is a traffic commissioner. (3) A person may hold two or more PSV operator's licences but shall not at the same time hold more than one such licence in relation to the same traffic area. (3A) Subject to the provisions of this Part of this Act, a PSV operator's licence authorises the holder to use anywhere in Great Britain a vehicle which has as its operating centre an operating centre specified in the licence." In subsection (4)— (a) for "the traffic commissioner" substitute "a traffic commissioner"; and (b) for "the commissioner such information as he" substitute "the traffic commissioner dealing with the application such information as he or another traffic commissioner".
section 14A(**14**) (objections to application for PSV operator's licence),	In subsection (2A), for "the traffic commissioner", substitute "a traffic commissioner".
section 15(**15**) (duration of licences),	In subsection (3), for the words from "requests" to "shall,", substitute "requests a traffic commissioner to terminate it at any time, he or another traffic commissioner must,".

(**12**) Section 5 was substituted by the Transport Act 1985, section 3(2) and amended by S.I. 2003/1615, article 2 and Schedule 1, Part 1, paragraph 8. There are other amendments to section 5 which are not relevant to this Order.
(**13**) Section 12(3) was amended by the Transport Act 1985 (c.67), section 3 and Schedule 2, Part 2. There are other amendments to section 12 which are not relevant to this Order. Subsection (3) is also modified in its application to persons in partnership by the Operation of Public Service Vehicles (Partnership) Regulations 1986, S.I. 1986/1628, regulation 5(1) and the Schedule, Part 1 (see the relevant entry in Schedule 2 to this Order). The Public Passenger Vehicles Act 1981 (c.14) has effect, in relation to a vehicle being used for the purposes of UK cabotage transport operations, as if section 12 was omitted, by virtue of the Public Service Vehicles (Community Licences) Regulations 2011, S.I. 2011/2634, regulation 18.
(**14**) Section 14A was inserted by the Transport Act 1985, section 25. Subsection (2A) was inserted by the Deregulation and Contracting Out Act 1994 (c.40), section 60. There are other amendments which are not relevant to this Order.
(**15**) Section 15 was amended by the Deregulation and Contracting Out Act 1994, section 61.