



Levelling-up and Regeneration Act 2023

2023 CHAPTER 55

PART 12

MISCELLANEOUS

PROSPECTIVE

244 Road user charging schemes in London

(1) Schedule 23 to GLAA 1999 (road user charging) is amended as follows.

(2) After paragraph 1(3) insert—

“(3A) Any reference in this Schedule to national obligations is a reference to obligations imposed by or under any enactment on a Minister of the Crown.”

(3) After paragraph 3 insert—

“Proposals relating to certain TfL schemes: opt out

- 3A (1) This paragraph applies where Transport for London proposes to—
- (a) make a TfL scheme the purpose, or one of the purposes, of which is the improvement of air quality, or
 - (b) significantly vary a TfL scheme where the purpose, or one of the purposes, of the variation is the improvement of air quality.
- (2) Transport for London must publish a draft order containing the proposed TfL scheme or the proposed variations to the TfL scheme.
- (3) The draft order must be in such form as the Authority may determine.
- (4) Transport for London may not make the order and submit it to the Authority in accordance with paragraph 4(1) otherwise than in accordance with [sub-paragraph \(8\)](#).

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- (5) A relevant London borough council may, within the opt-out period, give notice that it wants to opt out of the scheme (an “opt-out notice”).
- (6) An opt-out notice must be given to—
- (a) Transport for London, and
 - (b) the Secretary of State.
- (7) A London borough council is “relevant” if—
- (a) any of the council’s area falls within the charging area of the proposed TfL scheme or of the TfL scheme after the proposed variations have been made, and
 - (b) the principal purpose of the scheme applying in the council’s area is the improvement of air quality.
- (8) After the opt-out period has ended—
- (a) if [sub-paragraph \(9\)](#) applies, Transport for London may make the order and submit it to the Authority in accordance with paragraph 4(1);
 - (b) if [sub-paragraph \(10\)](#) applies, Transport for London may make the order and submit it to the Authority in accordance with paragraph 4(1) only if Transport for London first modifies the order so that the proposed TfL scheme, or the TfL scheme after the proposed variations have been made, will not apply to the area of each eligible council which has given, and not withdrawn, an opt-out notice.
- (9) This sub-paragraph applies if—
- (a) no opt-out notice has been given within the opt-out period or any opt-out notices that have been given within that period have been withdrawn, or
 - (b) one or more opt-out notices have been given within the opt-out period and have not been withdrawn, but each of them was given by a London borough council that is an ineligible council (whether or not that council was an ineligible council at the time the opt-out notice was given) and in each case either—
 - (i) the council did not submit an alternative plan, within the opt-out period, to the Secretary of State under [paragraph 3B](#), or
 - (ii) the council did so submit an alternative plan and the plan has been rejected under that paragraph.
- (10) This sub-paragraph applies if—
- (a) one or more opt-out notices have been given within the opt-out period and have not been withdrawn,
 - (b) in the case of any opt-out notice that was given by a London borough council that is an ineligible council (whether or not that council was an ineligible council at the time the opt-out notice was given)—
 - (i) the council did not submit an alternative plan, within the opt-out period, to the Secretary of State under [paragraph 3B](#), or

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- (ii) the council did so submit an alternative plan and the plan has been rejected under that paragraph, and
 - (c) one or more of the opt-out notices that have been given, and not withdrawn, was given by a London borough council that is an eligible council (whether or not that council was an eligible council at the time the opt-out notice was given).
- (11) A relevant London borough council is an “eligible council” if it has complied with any duty imposed on it under or by virtue of Part 4 of the Environment Act 1995 and—
 - (a) no part of the council’s area is designated, or is required to be designated, as an air quality management area under section 83 of the Environment Act 1995 (designation of air quality management areas), or
 - (b) if any part of the council’s area is so designated, or required to be so designated, the council has an alternative plan that has been approved by the Secretary of State under paragraph 3B.
- (12) In this paragraph and paragraph 3B—
 - “alternative plan” means a plan for improving air quality in the area of the London borough council which does not involve the TfL scheme applying to any of the area of the London borough council;
 - “eligible council” has the meaning given by sub-paragraph (11) and “ineligible council” is to be read accordingly;
 - “opt-out notice” has the meaning given by sub-paragraph (5);
 - “opt-out period” means the period of 10 weeks beginning with the day on which the draft order containing the proposed TfL scheme, or the proposed variations to the TfL scheme, is published in accordance with sub-paragraph (2);
 - “relevant London borough council” has the meaning given by sub-paragraph (7).
- 3B (1) This paragraph applies where paragraph 3A applies and a relevant London borough council—
 - (a) gives an opt-out notice, within the opt-out period, in relation to the TfL scheme and does not withdraw it, and
 - (b) submits an alternative plan to the Secretary of State within that period.
- (2) The London borough council must—
 - (a) notify Transport for London that the council has submitted the alternative plan, and
 - (b) provide Transport for London with a copy of it.
- (3) The Secretary of State must, before the end of the review period, by notice to the London borough council and Transport for London—
 - (a) approve the alternative plan, or
 - (b) reject the alternative plan.
- (4) Subject to sub-paragraph (5), the Secretary of State must approve the alternative plan if the Secretary of State is satisfied that it is likely to

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achieve and maintain improvements in relation to air quality standards and objectives, in every part of the London borough council's area that is designated, or is required to be designated, as mentioned in [paragraph 3A\(11\)\(a\)](#), that are similar to those that the proposed TfL scheme, or the TfL scheme after the proposed variations have been made, is likely to achieve if it applies to the area of the council.

- (5) The Secretary of State is not required to approve the alternative plan if the Secretary of State considers that the plan is inconsistent, or could be inconsistent, with national policies or obligations relating to air quality.
- (6) At any time during the review period before the Secretary of State approves or rejects the alternative plan under [sub-paragraph \(3\)](#), the Secretary of State may invite the London borough council to modify the plan for the purposes of securing that—
 - (a) the Secretary of State can be satisfied as mentioned in [sub-paragraph \(4\)](#), or
 - (b) the plan is consistent with national policies or obligations relating to air quality,
 and if the council modifies the plan, [sub-paragraphs \(3\) to \(5\)](#) apply in relation to the plan as modified.
- (7) The review period is the period of 16 weeks beginning with the day after the day on which the opt-out period ends.
- (8) The Secretary of State may on one or more occasions extend the review period.
- (9) The Secretary of State must give notice of any extension under [sub-paragraph \(8\)](#) to—
 - (a) each London borough council that has—
 - (i) given an opt-out notice, within the opt-out period, in relation to the TfL scheme and not withdrawn it, and
 - (ii) submitted an alternative plan to the Secretary of State within that period, and
 - (b) Transport for London.
- (10) Where a London borough council's alternative plan has been approved under this paragraph, the Mayor may issue a direction to the council requiring it to take such steps as may be specified in the direction for the purpose of securing that the alternative plan is implemented.
- (11) The power to give a direction under [sub-paragraph \(10\)](#) may only be exercised by the Mayor after consultation with the London borough council concerned.
- (12) Where the Mayor issues a direction to a London borough council under [sub-paragraph \(10\)](#), the council must comply with the direction.
- (13) In [sub-paragraph \(4\)](#) the reference to air quality standards and objectives is to air quality standards and objectives within the meaning of Part 4 of the Environment Act 1995.”

(4) After paragraph 4(2) insert—

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“(2A) Where an order has been modified in accordance with [paragraph 3A\(8\)\(b\)](#) before being made and submitted by Transport for London under this paragraph, the Authority must—

- (a) require Transport for London to publish its proposals for the TfL scheme, or the proposed variations to the TfL scheme, and to consider objections to the proposals, and
- (b) consult or require Transport for London to consult—
 - (i) any London borough council any of whose area falls within the charging area of the proposed TfL scheme or of the TfL scheme after the proposed variations have been made,
 - (ii) the Secretary of State, and
 - (iii) such other persons as the Authority considers appropriate.

(2B) In a case not falling within [sub-paragraph \(2A\)](#), the Authority may—

- (a) consult, or require an authority making a charging scheme to consult, other persons;
- (b) require such an authority to publish its proposals for the scheme and to consider objections to the proposals.”

(5) In paragraph 4(3)—

- (a) in the opening words, for “The” substitute “In any case, the”;
- (b) omit paragraphs (a) and (aa).

(6) After paragraph 4 insert—

“Secretary of State’s intervention power in relation to certain schemes

4A (1) This paragraph applies where—

- (a) the Secretary of State has been consulted under paragraph [4\(2A\)\(b\)\(ii\)](#) about an order containing a proposal for a TfL scheme or proposed variations to a TfL scheme, and
- (b) the Authority has—
 - (i) made any modifications to the order under paragraph 4(3)
 - (d) that it considers appropriate, or
 - (ii) decided not to make any such modifications.

(2) The Authority may not confirm the order under paragraph 4(1) unless—

- (a) the Authority has published the order, and
- (b) the condition in [sub-paragraph \(3\)](#) has been met.

(3) The condition in this sub-paragraph is met if—

- (a) the period of 60 days beginning with the day on which the order is published (the “confirmation period”) expires without the Secretary of State giving the Authority a direction in relation to the order under [sub-paragraph \(4\)](#), or
- (b) before the end of the confirmation period the Secretary of State gives the Authority a direction in relation to the order under [sub-paragraph \(4\)](#) and the Authority has modified the order in accordance with the direction.

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(4) Where the Secretary of State considers that as a result of the order being modified in accordance with [paragraph 3A\(8\)\(b\)](#)—

- (a) the proposed TfL scheme contained in the order would or could be inconsistent with national policies or obligations relating to air quality, or
- (b) the TfL scheme after the proposed variations contained in the order have been made would or could be inconsistent with such policies or obligations,

the Secretary of State may, within the confirmation period, direct the Authority to make modifications to the order so as to prevent the inconsistency by expanding the charging area of the proposed TfL scheme contained in the order, or the TfL scheme after the proposed variations contained in the order have been made, to include any of the area of a London borough council to which the scheme would not otherwise apply by virtue of the modification in accordance with [paragraph 3A\(8\)\(b\)](#).”

(7) In paragraph 34B(1), after “functions” insert “, or the Secretary of State’s functions,”.

(8) In paragraph 38—

- (a) after “sub-paragraphs” insert “(2A), (2B),”;
- (b) at the end insert “, but does not apply to a variation to a TfL scheme made as a result of a modification to an order under [paragraph 4A\(3\)\(b\)](#)”.

Commencement Information

11 S. 244 not in force at Royal Assent, see [s. 255\(9\)\(a\)](#)

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