

RESTRICTED ROADS (20 MPH SPEED LIMIT) (SCOTLAND) BILL

EXPLANATORY NOTES

INTRODUCTION

1. As required under Rule 9.3.2A of the Parliament’s Standing Orders, these Explanatory Notes are published to accompany the Restricted Roads (20 mph Speed Limit) (Scotland) Bill, introduced in the Scottish Parliament on 21 September 2018. They have been prepared by the Non-Government Bills Unit on behalf of Mark Ruskell, the member who introduced the Bill.
2. The following other accompanying documents are published separately:
 - statements on legislative competence by the Presiding Officer and the member who introduced the Bill (SP Bill 39–LC);
 - a Financial Memorandum (SP Bill 39–FM);
 - a Policy Memorandum (SP Bill 39–PM).
3. The Explanatory Notes are intended to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section, or a part of a section, does not seem to require any explanation or comment, none is given.

THE BILL

4. The purpose of the Bill is to reduce the general speed limit on a “restricted road” from 30 mph to 20 mph.

LEGISLATIVE CONTEXT

5. The current law on speed limits is contained in Part VI of the Road Traffic Regulation Act 1984.
6. Subsection (1) of section 81 of that Act sets a “general” speed limit of 30 mph on restricted roads. Unlike other speed limits set by or under the 1984 Act, this limit applies to all classes of motor vehicle. (The limit does not apply to non-motorised vehicles such as horse-drawn vehicles or pedal cycles.)

7. As originally enacted, the rest of that section allowed UK Ministers to vary the limit by order, any such order being subject to approval by resolution of each House of Parliament. Following the passage of the Scotland Act 2016, which devolved to the Scottish Parliament certain powers over speed limits, this was amended to allow the speed limit in subsection (1) to be varied by order of the “national authority” (which, in Scotland, means the Scottish Ministers¹). Such an order is subject to “the affirmative procedure” as defined in the Interpretation and Legislative Reform (Scotland) Act 2010 (that is, it cannot be made unless it has been laid in draft before the Scottish Parliament and approved by resolution). In addition, the Scottish Ministers must consult the Secretary of State before making such an order.

8. Section 82(1) of the 1984 Act defines what counts as a “restricted road”. In Scotland, a road is a restricted road if “there is provided on it a system of carriageway lighting furnished by means of lamps placed not more than 185 metres apart and the road is of a classification or type specified for the purposes of this subsection in regulations”. The relevant regulations (the Restricted Roads (Classification or Type) (Scotland) Regulations 1985) specify the relevant roads as “roads classified by the Secretary of State under the Roads (Scotland) Act 1984 as Class C and unclassified roads”.

9. Subsection (2) of section 82 allows a traffic authority (the Scottish Ministers in relation to trunk roads; a local authority in relation to most other roads) to direct either (a) that a road which is a restricted road for the purposes of section 81 ceases to be such a road for those purposes, or (b) that a road which is not a restricted road for those purposes becomes such a road for those purposes. Under subsection (3) of that section, a “special road” (which includes all motorways and a few other roads on which rights of way are restricted to specified classes of vehicle) cannot be a restricted road.

10. Section 84(1)(a) of the 1984 Act allows a permanent speed limit to be imposed on any road by order, and while such an order is in force, the road is not a restricted road (by virtue of section 84(3)).

11. Accordingly, the general (default) speed limit of 30 mph set by section 81 of the 1984 Act applies to all street-lit Class C and unclassified roads, except where those roads have been “de-restricted” (either by a direction under section 82(2)(a), or by virtue of section 84(3)); and to any other road which has been “restricted” by direction under section 82(2)(b).

12. Under section 89 of the 1984 Act, anyone breaking the speed limit set by section 81(1) is guilty of an offence. Under Schedule 2 to the Road Traffic Offenders Act 1988, persons convicted of such an offence must have their licence endorsed with between three and six penalty points (three in the case of a fixed-penalty offence), and may also be fined (up to level 3 on the standard scale – currently £1,000) or disqualified.

¹ In Wales, it is the Welsh Ministers and in England, the Secretary of State.

COMMENTARY ON SECTIONS

Section 1

13. This section replaces subsection (1) of section 81 of the 1984 with a new subsection. The new version is in identical terms to the existing one except that “30” is replaced with “20”. The effect is that a person who drives a motor vehicle on a restricted road at a speed exceeding 20 mph will be committing an offence.

Section 2

14. This section replaces subsection (2) of section 81 with a new subsection. The new version replaces “the national authority” with “the Scottish Ministers” to reflect the fact that, in a devolved Scottish context, they have the same meaning. It also generalises the reference to the speed limit that may be raised or lowered by an order under this subsection so that it covers not just the 30 mph limit specified by the 1984 Act when originally enacted, or any replacement limit specified by a previous such order, but also the 20 mph limit put in place by this Bill. This ensures that the Bill does not inadvertently restrict the Scottish Ministers’ ability to further amend the speed limit on restricted roads (if need be on more than one occasion) by means of an order under section 81(2).

Section 3

15. The Local Authorities’ Traffic Orders (Procedure) (Scotland) Regulations 1999 specify the procedure that must be followed when a local authority (as the traffic authority for most roads within its area) proposes to use its powers under the 1984 Act to regulate traffic on a road. Normally, that requires consultation (with specified persons and organisations), publication of information about the proposed order (including in a local newspaper) and a period (of at least 21 days) during which objections may be made to the proposed order. However, Schedule 6 to the 1999 Regulations sets out various circumstances in which a simplified procedure may be used which does not involve these requirements (consultation, publication, notification and objections).

16. Section 3 of the Bill adds into Schedule 6 a further category of order to which the simplified procedure applies. As a result, a local authority may make an order under the simplified procedure if it considers that the order is necessary or expedient as a consequence of a change to the general speed limit on restricted roads, whether that change is made by this (or any other) Bill or by an order under section 81(2) of the 1984 Act.

17. For example, where a local authority had already made orders (under section 84 of the 1984 Act) imposing 20 mph limits on roads within its area that would otherwise be restricted roads, then it might wish to revoke those orders once the Bill had come into force. As a result of new paragraph 1(10A) in Schedule 6 to the 1999 Regulations (inserted by section 3 of the Bill), the simplified procedure would apply to such a revoking order. However, paragraph 1(10A) does not apply if the effect of the order is to increase the speed limit that would apply if the order was not made. Accordingly, if the local authority wished to make an order to impose a 30 mph speed limit on a road that would otherwise (by virtue of the Bill) have its speed limit reduced

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from 30 mph to 20 mph, it would have to use the full procedure specified in the 1999 Regulations, rather than the simplified procedure.

Section 4

18. The two substantive provisions (sections 1 and 2) come into force 18 months after Royal Assent unless an earlier date is first appointed by regulations made by the Scottish Ministers. Any such regulations would be made in the form of a statutory instrument and laid before the Parliament, but would not be subject to either the affirmative or negative procedure.

19. Sections 3 to 5 come into force on the day after Royal Assent.

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