



# Transport (Scotland) Act 2001

## 2001 asp 2

### PART 2

#### BUS SERVICES

##### *Quality partnership schemes*

VALID FROM 01/07/2001

### **3 Quality partnership schemes**

- (1) A local transport authority, or two or more such authorities acting jointly, may make a quality partnership scheme covering the whole or any part of their area, or combined area, if they are satisfied that the scheme will—
  - (a) to any extent implement their relevant general policies in the area to which the proposed scheme relates; and
  - (b) either—
    - (i) improve the quality of local services and facilities provided in the area to which the proposed scheme relates in such a way as to bring material benefits to persons using those services and facilities; or
    - (ii) reduce or limit traffic congestion, noise or air pollution.
- (2) A quality partnership scheme may not be made unless the authority have complied with the notice and consultation requirements imposed by section 5 of this Act.
- (3) A quality partnership scheme is a scheme under which—
  - (a) the authority provide, during such periods as may be specified in the scheme, such facilities as may be so specified (in this Part of this Act facilities so specified being referred to as “specified facilities”) in the area to which the scheme relates; and
  - (b) operators of local services who wish to use the specified facilities are required to undertake to provide, during such periods as may be specified in the scheme, local services of such standard as may be specified in the scheme (in this Part of this Act any standard so specified being referred to as the “specified standard”) when using them.

*Status: Point in time view as at 01/04/2001. This version of this part contains provisions that are not valid for this point in time.*

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- (4) Any specified facilities—
- (a) shall be provided at such locations within the area to which the scheme relates as may be specified in the scheme along routes served, or proposed to be served, by local services; or
  - (b) shall be facilities which are ancillary to facilities so provided.
- (5) Anything which the authority are required to provide, or secure the provision of, by virtue of section 33 or 34 of this Act may not be a specified facility.
- (6) Any specified standard—
- (a) may include—
    - (i) requirements which the vehicles being used to provide the services shall meet; and
    - (ii) requirements as to the minimum frequency of services; but
  - (b) may not include requirements as to the maximum frequency, or timing, of services.
- (7) If in relation to a proposed scheme the provision of any of the specified facilities requires the making of a traffic regulation order in respect of a road for which the Secretary of State and the Scottish Ministers are the traffic authority (within the meaning of section 121A of the Road Traffic Regulation Act 1984 (c.27)), that proposed scheme may not be made unless it is made by the local transport authority and—
- (a) in a case where the order is to be made by the Secretary of State only, the Secretary of State;
  - (b) in a case where the order is to be made by the Scottish Ministers only, the Scottish Ministers; or
  - (c) in a case where the order is to be made by the Secretary of State and the Scottish Ministers, the Secretary of State and the Scottish Ministers, acting jointly.
- (8) Subject to subsection (9) below, for the purposes of this section (other than subsection (1) above) and sections 5 to 10 of this Act, any reference to a local transport authority shall be construed, in any case where a scheme is made (or proposed to be made)—
- (a) by two or more such authorities acting jointly, as a reference to both (or, as the case may be, all) of those authorities;
  - (b) by virtue of subsection (7)(a) or (b) above by—
    - (i) the Secretary of State or the Scottish Ministers; and
    - (ii) such an authority or two or more such authorities, acting jointly, as a reference to the Secretary of State or, as the case may be, the Scottish Ministers and that authority or, as the case may be, those authorities; or
  - (c) by virtue of subsection (7)(c) above by—
    - (i) the Secretary of State;
    - (ii) the Scottish Ministers; and
    - (iii) such an authority or two or more such authorities, acting jointly, as a reference to the Secretary of State, the Scottish Ministers and that authority or, as the case may be, those authorities.

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- (9) In construing a reference to a local transport authority for the purposes of subsection (7) above and section 10 of this Act, paragraph (b) of subsection (8) above shall be disregarded.

#### **4 Regulations as respects specifying existing facilities in quality partnership schemes**

- (1) The Scottish Ministers may by regulations make provision as respects the specifying in quality partnership schemes of facilities which are provided before such schemes are proposed (in this section any such facilities being referred to as “existing facilities”).
- (2) The regulations may in particular—
- (a) provide that particular existing facilities or classes of existing facilities may not be specified;
  - (b) provide that existing facilities may not be specified if they were provided before such date as may be prescribed by, or determined in accordance with, the regulations;
  - (c) provide that particular existing facilities or classes of existing facilities may be specified only in circumstances prescribed by the regulations;
  - (d) provide that, in circumstances prescribed by the regulations, particular existing facilities or classes of existing facilities may be specified only with the consent of such person as may be prescribed by, or determined in accordance with, the regulations; and
  - (e) make provision modifying any of sections 5 to 7 as those sections apply in relation to schemes, or proposed schemes, which specify existing facilities.

VALID FROM 01/07/2001

#### **5 Consultation as to proposed quality partnership scheme**

- (1) If a local transport authority propose to make a quality partnership scheme, they shall give notice of the proposed scheme in at least one local newspaper circulating in the area to which it relates.
- (2) The notice shall—
- (a) set out the authority’s proposals for specified facilities and specified standards; or
  - (b) state where, in what form, and at what times, such proposals may be inspected.
- (3) If any of the proposed specified facilities would affect a road for which the Secretary of State and the Scottish Ministers are the traffic authority (within the meaning of section 121A of the Road Traffic Regulation Act 1984 (c.27)) the authority shall consult the Secretary of State and the Scottish Ministers before giving notice of the proposed scheme.
- (4) After giving notice of the proposed scheme, the authority shall consult—
- (a) all operators of local services who are, in the opinion of the authority, likely to be affected by it;

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- (b) such organisations appearing to the authority to be representative of users of local services as they think fit;
- (c) every other local transport authority any part of whose area is, in the opinion of the authority, likely to be affected by it;
- (d) any—
  - (i) local transport authority (as defined in paragraphs (a) to (c) of section 108(4) of the Transport Act 2000 (c.38)); or
  - (ii) metropolitan district council in England, any part of whose area is, in the opinion of the authority, likely to be affected by it;
- (e) the traffic commissioner;
- (f) the chief officer of police for each police area which is to any extent comprised in the area to which the scheme relates; and
- (g) such other persons as the authority think fit.

**Modifications etc. (not altering text)**

**C1** S. 5 applied (with modifications) (1.7.2001) by [S.S.I. 2001/218](#), [reg. 5](#)

VALID FROM 01/07/2001

**6 Making of quality partnership scheme**

- (1) If, having complied with section 5 of this Act, a local transport authority decide that it is appropriate to make a quality partnership scheme, they may make it—
- (a) in the form proposed; or
  - (b) subject to such modifications as they may specify.
- (2) A scheme shall set out—
- (a) the specified facilities to be provided by the authority;
  - (b) the specified standard of local services which operators are required to undertake to provide;
  - (c) the date on which it shall come into operation;
  - (d) the period (being a period of more than three, but not more than seven, years) for which it shall remain in operation; and
  - (e) procedures for determining any dispute arising in relation to the scheme between the authority and any operator of local services who has undertaken to provide such services under the scheme.
- (3) A scheme may provide that—
- (a) local services specified in it; or
  - (b) local services of a class specified in it,
- are to be excluded from the scheme, subject to such conditions (if any) as may be specified in it.
- (4) Any date specified by virtue of subsection (2)(c) above shall not be earlier than the date by which, in the opinion of the authority, it will be reasonably practicable—

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- (a) for the authority to provide the specified facilities in accordance with the scheme; and
- (b) for operators of local services to provide the specified standard of services in accordance with the scheme,

and, in any event, shall not be earlier than whichever is the later of the dates mentioned in subsection (5) below.

(5) The dates referred to in subsection (4) above are—

- (a) the date 3 months after that on which the scheme is made; and
- (b) the date 3 months after that on which any traffic regulation order required for the provision of any of the specified facilities is made (or, if more than one such order is required for that purpose, the date on which the last of them is made).

(6) Not later than 14 days after the date on which a scheme is made, the authority shall give notice—

- (a) in at least one local newspaper circulating in the area to which the scheme relates;
- (b) to all operators of local services who are, in the opinion of the authority, likely to be affected by the scheme; and
- (c) to the traffic commissioner.

(7) The notice shall—

- (a) set out the scheme; or
- (b) state where, in what form, and at what times, the scheme may be inspected, and, if the scheme made is a modified version of that proposed, state that fact.

VALID FROM 01/07/2001

## **7 Postponement of quality partnership scheme**

(1) If it appears to the local transport authority who made a quality partnership scheme reasonable to do so, they may postpone the date on which the scheme would otherwise come into operation by such period, not exceeding 12 months, as they think fit.

(2) Before postponing a date under subsection (1) above, an authority shall consult all operators of local services who are, in the opinion of the authority, likely to be affected by the postponement.

(3) Not later than 14 days after the date on which an authority postpone a date under subsection (1) above the authority shall give notice of the postponement—

- (a) in at least one local newspaper circulating in the area to which the scheme relates;
- (b) to all operators of local services who are, in the opinion of the authority, likely to be affected by the postponement; and
- (c) to the traffic commissioner.

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VALID FROM 01/07/2001

## 8 Effect of quality partnership scheme

- (1) Subject to subsections (2) and (3) below, a local transport authority shall, during such periods as may be specified in the quality partnership scheme, provide such of the specified facilities as are to be provided by them under the scheme.
- (2) Subsection (1) above shall not apply in relation to any period during which the authority are temporarily unable to provide the facilities owing to circumstances beyond their control.
- (3) Subsection (1) above shall not apply in the case of the Secretary of State or, as the case may be, the Scottish Ministers if the Secretary of State is, or the Scottish Ministers are, unable to provide the facilities owing to the variation or revocation of a traffic regulation order.
- (4) The operator of a local service may not use the specified facilities unless the operator—
  - (a) has given a written undertaking to the traffic commissioner that the operator will, except in circumstances beyond the operator's control, provide, during such periods as may be specified in the scheme, the local service to the specified standard when using the facilities; and
  - (b) provides the service to that standard when using the facilities.
- (5) Any undertaking given under subsection (4)(a) above shall be treated, during any period when the relevant scheme is in operation, as if it were prescribed particulars registered under section 6 of the 1985 Act (registration of local services) of the service concerned.
- (6) Subsection (4) above shall not apply in relation to services which are excluded from the scheme by virtue of section 6(3) of this Act.
- (7) Where conditions are specified by virtue of section 6(3) of this Act, those conditions shall be treated, during any period when the scheme is in operation, as if they were prescribed particulars registered under section 6 of the 1985 Act of the service concerned.

VALID FROM 01/07/2001

## 9 Variation or revocation of quality partnership scheme

- (1) Subject to subsections (3) and (4) below, a local transport authority who made a quality partnership scheme may vary the scheme if they decide that it is appropriate to do so.
- (2) Subject to subsection (4) below, the authority who made a scheme may revoke it if all operators of local services who have given an undertaking such as is mentioned in section 8(4)(a) of this Act consent to the revocation; and such consent shall not be unreasonably withheld.

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- (3) If the variation of a scheme under subsection (1) above would require the making of a traffic regulation order, sections 5 and 6 of this Act shall apply to the variation of the scheme as those sections apply to the making of a scheme.
- (4) Sections 5 and 6 of this Act shall apply to any variation (other than a variation which would require the making of a traffic regulation order) under subsection (1) above, or revocation under subsection (2) above, except to the extent that the procedure is modified by regulations made under section 11 of this Act.

VALID FROM 01/07/2001

## 10 Reports on quality partnership schemes

- (1) In relation to each quality partnership scheme made by them, a local transport authority shall, for each successive period of 12 months during which the scheme is in operation (the first period being taken to begin on the date on which the scheme comes into operation), prepare and submit to the Scottish Ministers a report on the effectiveness of the scheme.
- (2) In preparing a report under subsection (1) above an authority shall have regard to any representations relating to—
  - (a) local services in their area; and
  - (b) specified facilities,made to them during the period to which the report relates.
- (3) An authority may require any operator of a local service to provide such information as the authority may specify for or in connection with the preparation of a report under subsection (1) above; and in so far as the provision of such information would be reasonable, the operator shall comply with any such requirement.
- (4) Any report under this section shall be submitted not later than 6 months after the end of the period to which it relates.
- (5) Before submitting a report under this section the authority shall consult the traffic commissioner in relation to the proposed content of the report.

## 11 Regulations as respects quality partnership schemes

- (1) The Scottish Ministers may by regulations make further provision with respect to—
  - (a) the procedure to be followed when making, varying or revoking quality partnership schemes;
  - (b) specifying any case where no procedure requires to be followed when making, varying or revoking quality partnership schemes;
  - (c) the local services or classes of local services which shall, or may, be excluded from schemes;
  - (d) the conditions which shall, or may, be attached to such exclusions;
  - (e) the form and manner in which undertakings are to be given to the traffic commissioner in connection with schemes;
  - (f) the making of traffic regulation orders in connection with schemes; and

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- (g) such other incidental matters in connection with quality partnership schemes as the Scottish Ministers think fit.
- (2) The regulations may in particular make provision with respect to—
- (a) giving notice of proposed schemes or proposed variations or revocations of schemes;
  - (b) objections to such proposals;
  - (c) the holding of inquiries or hearings into objections;
  - (d) modifications of such proposals;
  - (e) the form of schemes or variations; and
  - (f) giving notice of schemes which have been made or of variations, or revocations, of schemes.

VALID FROM 01/07/2001

## 12 Eligibility for service subsidies

In section 63(5) of the 1985 Act (power of local authority to enter into agreement for service subsidies), in paragraph (a)—

- (a) after “question” there shall be inserted “—(i)”; and
- (b) after “provided” there shall be inserted “; or
  - (ii) would not be provided to the standard specified in a quality partnership scheme made under section 6 of the Transport (Scotland) Act 2001 (asp 2),”.

### *Quality contract schemes*

VALID FROM 01/07/2001

## 13 Quality contract schemes

- (1) A local transport authority, or two or more such authorities acting jointly, may make a quality contract scheme covering the whole or any part of their area, or combined area, if they are satisfied that—
- (a) making the proposed scheme is necessary for the purpose of implementing their relevant general policies in the area to which the proposed scheme relates; and
  - (b) the proposed scheme will implement those policies in a way which is economic, efficient and effective.
- (2) In this section (other than subsection (1) above) and, subject to subsection (3) below, in sections 15 to 25 of this Act any reference to a local transport authority shall be construed, in any case where a quality contract scheme is made (or proposed to be made) by two or more such authorities acting jointly, as a reference to both (or, as the case may be, all) of those authorities; and in such a case any reference to the area of an authority shall be construed as a reference to the combined area of those authorities.



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- (3) Subsection (2) above shall not apply to sections 17(4), 18(4)(b) and (5) and 23(4) of this Act.
- (4) A quality contract scheme may not be made unless the authority have—
- (a) complied with the notice and consultation requirements imposed by section 15 of this Act; and
  - (b) obtained the approval of the Scottish Ministers in accordance with section 16 of this Act.
- (5) A quality contract scheme is a scheme under which—
- (a) the authority determine—
    - (i) what local services should be provided in the area to which the scheme relates;
    - (ii) the standards to which they should be provided;
    - (iii) any additional facilities or services which should be provided in that area; and
  - (b) local services (other than services excluded from the scheme by virtue of provision such as is mentioned in section 14(3) of this Act) may be provided in the area to which the scheme relates only under a quality contract.
- (6) In this Part of this Act “quality contract”, in relation to a quality contract scheme, means an agreement entered into under section 18 or 19 of this Act under which—
- (a) the authority grant to another person the exclusive right to operate the local services to which the contract relates; and
  - (b) that person undertakes to provide those services on such terms (including in particular as to frequency, fares and standard of service) as may be specified in the agreement.
- (7) A quality contract may—
- (a) include provision for—
    - (i) the making of payments by the authority to the person undertaking to provide the local service; or
    - (ii) the making of payments by the person undertaking to provide the local service to the authority; or
  - (b) make no such provision as is mentioned in paragraph (a) above.
- (8) A quality contract may include provision requiring one or more of the parties to provide additional facilities or services.
- (9) Section 88(1) of the 1985 Act (application to subsidy agreements of sections 89 to 92 of that Act) shall not apply in relation to quality contracts.

VALID FROM 01/07/2001

#### **14 Proposed quality contract scheme**

- (1) A proposed quality contract scheme shall specify—
- (a) the area to which the scheme relates;
  - (b) that the scheme shall, in so far as relating to each local service included in it, come into operation—

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- (i) on a date not earlier than six months after the day on which the local traffic authority who made the scheme enter into a quality contract in respect of that service; or
    - (ii) on such earlier date as the authority may specify, (the first date on which the scheme so comes into operation being referred to in this section as the “operational date”); and
  - (c) the period (being a period of more than three, but not more than seven, years beginning on the operational date) during which it is to remain in operation.
- (2) A proposed scheme shall outline—
- (a) the local services which are to be provided under quality contracts; and
  - (b) the features of the proposed invitations to tender for quality contracts.
- (3) A proposed scheme may provide that—
- (a) local services specified in it; or
  - (b) local services of a class specified in it,
- are to be excluded from the scheme, subject to such conditions (if any) as may be specified in it.
- (4) A proposed scheme may contain such ancillary provisions as the authority think fit.
- (5) If a proposed quality contract scheme relates to any extent to the same area as a quality partnership scheme, the quality contract scheme may include provision—
- (a) varying or revoking any such quality partnership scheme which relates only to the area of the authority by which the quality contract scheme is made; or
  - (b) varying any other such quality partnership scheme to the extent that it so relates.
- (6) The Scottish Ministers may by order vary the number of years mentioned in subsection (1)(c) above.

VALID FROM 01/07/2001

## **15 Consultation as to proposed quality contract scheme**

- (1) If a local transport authority propose to make a quality contract scheme, they shall give notice of the proposed scheme in at least one local newspaper circulating in the area to which it relates.
- (2) The notice shall—
- (a) set out the proposed scheme or state where, in what form, and at what times, a copy of it may be inspected; and
  - (b) state the authority’s reasons for wishing to make the scheme.
- (3) After giving notice of the proposed scheme, the authority shall consult—
- (a) all operators of local services in the area to which the proposed scheme relates;
  - (b) all persons (other than those falling within paragraph (a) above) holding a PSV operator’s licence or a community bus permit who are, in the opinion of the authority, likely to be affected by it;

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- (c) such organisations appearing to the authority to be representative of users of local services as they think fit;
  - (d) every other local transport authority any part of whose area is, in the opinion of the authority, likely to be affected by it;
  - (e) any—
    - (i) local transport authority (as defined in paragraphs (a) to (c) of section 108(4) of the Transport Act 2000 (c.38)); or
    - (ii) metropolitan district council in England, any part of whose area is, in the opinion of the authority, likely to be affected by it;
  - (f) the traffic commissioner;
  - (g) the chief officer of police for each police area which is to any extent comprised in the area to which the scheme relates; and
  - (h) such other persons as the authority think fit.
- (4) The authority may modify the proposed scheme following those consultations.

VALID FROM 01/07/2001

## **16 Approval of proposed quality contract scheme**

- (1) If, having complied with section 15 of this Act, a local transport authority wish to proceed with a proposed scheme, they shall apply to the Scottish Ministers for their approval of the proposed scheme.
- (2) The application shall include—
  - (a) the authority's reasons for wishing to make the scheme; and
  - (b) such other information as the Scottish Ministers may reasonably require, having regard to the conditions set out in paragraphs (a) and (b) of section 13(1) of this Act.
- (3) Any person consulted under section 15(3) of this Act may make written representations to the Scottish Ministers about the scheme.
- (4) If the Scottish Ministers are satisfied that it is in the interests of the public that a proposed scheme be made, they may approve it—
  - (a) in the form in which it is submitted; or
  - (b) subject to subsection (6) below, subject to such modifications as they may specify.
- (5) In determining what is in the interests of the public for the purpose of subsection (4) above the Scottish Ministers shall have particular regard to the conditions set out in paragraphs (a) and (b) of section 13(1) of this Act.
- (6) If the Scottish Ministers propose to approve a scheme subject to modifications, they shall first inform the authority and that authority shall—
  - (a) consult such of the persons consulted by them under section 15(3) of this Act as are, in the opinion of the authority, likely to be affected by those modifications; and
  - (b) inform the Scottish Ministers of the outcome of that consultation.

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## 17 Making of quality contract scheme

- (1) Where under section 16(4) of this Act, the Scottish Ministers approve a proposed quality contract scheme, the local transport authority who proposed it may, not later than 6 months after the date of the approval, make it as approved.
- (2) Not later than 14 days after the date on which a scheme is made, the authority shall—
  - (a) give notice in at least one local newspaper circulating in the area to which the scheme relates; and
  - (b) send a copy of the scheme to the traffic commissioner.
- (3) The notice shall state—
  - (a) that the scheme has been made; and
  - (b) where, in what form, and at what times, a copy of the scheme may be inspected.
- (4) If a quality contract scheme includes provision such as is mentioned in section 14(5)(b) of this Act varying a quality partnership scheme which was made by two or more authorities so that it no longer so relates, such of those authorities as did not make the quality contract scheme may—
  - (a) subject to the provision so made, if they decide that it is appropriate to do so, vary that quality partnership scheme; or
  - (b) if all operators of local services who have given an undertaking such as is mentioned in section 8(4)(a) of this Act consent to the revocation of the scheme (which consent shall not be unreasonably withheld), revoke that quality partnership scheme;

and subsections (3) and (4) of section 9 of this Act shall apply to a variation or revocation under this section as those subsections apply to a variation or revocation under that section.
- (5) For the purposes of subsection (4) above, any reference to a local transport authority shall be construed as including a reference to the Secretary of State or, as the case may be, the Scottish Ministers.

VALID FROM 01/07/2001

## 18 Tendering for quality contracts

- (1) Subject to any regulations under subsection (1), and to subsections (2) and (5), of section 19 of this Act, a local transport authority who have made a quality contract scheme shall not enter into a quality contract otherwise than by accepting a tender invited in pursuance of this section.
- (2) An authority shall, not later than—
  - (a) 3 months; or
  - (b) such other period as the Scottish Ministers may by order specify,

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after a scheme has been made by them, invite tenders for the provision of local services to which the scheme relates for such period and on such basis as may be specified in the invitation to tender.

- (3) The period specified in the invitation to tender shall not exceed seven years beginning with the operational date of the scheme to which the invitation relates.
- (4) An invitation to tender shall—
  - (a) be issued generally, in such manner as the authority consider appropriate for bringing it to the attention of persons who may be interested; and
  - (b) be issued individually to all persons who have given to the authority, or any of the authorities, a written notice—
    - (i) indicating that they wish to receive invitations to tender for the provision of local services of a description to which the invitation relates; and
    - (ii) specifying the address to which such an invitation is to be directed.
- (5) It shall be sufficient for the purposes of subsection (4)(b) above if the authority send the invitation to the person giving such a notice at the address specified in the notice.
- (6) The authority may accept a tender only if it is submitted by a person who is the holder of either—
  - (a) a PSV operator's licence, not being a licence to which a condition is attached under section 26 of the 1985 Act (power of traffic commissioner to attach conditions to licences) prohibiting the holder from using vehicles under the licence to provide local services of all descriptions or of any description to which the invitation relates; or
  - (b) a community bus permit.
- (7) The Scottish Ministers may by regulations make provision requiring local transport authorities to publish such information as may be prescribed in relation to—
  - (a) tenders submitted to them in accordance with this section; or
  - (b) their reasons for entering into particular quality contracts.

VALID FROM 01/07/2001

## **19 Exceptions from section 18(1)**

- (1) The Scottish Ministers may by regulations provide that section 18(1) of this Act shall not apply to quality contracts of such description as may be specified in the regulations; and any such description may be framed by reference to—
  - (a) the description of local service to which a quality contract relates;
  - (b) the description of persons proposing to operate a local service;
  - (c) the period during which a local service is to be provided under a contract; or
  - (d) any other relevant circumstances.
- (2) Section 18(1) of this Act shall not apply in any case where it appears to a local transport authority that action is urgently required for the purpose of—
  - (a) maintaining an existing local service;

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- (b) securing the provision of a local service in place of any such service that has ceased to operate; or
  - (c) securing the provision of a local service to meet any public transport requirement which has arisen unexpectedly and ought, in the opinion of the authority, to be met without delay.
- (3) Where by virtue of subsection (2) above any authority enters into a quality contract to which subsection (1) of section 18 of this Act does not apply, that authority shall as soon as practicable invite tenders for the provision of the service which is the subject of that quality contract for such period and on such basis as may be specified in the invitation to tender; and subsections (3) to (7) of that section shall apply in any such case as if the invitation had been issued under subsection (2) of that section.
- (4) Any quality contract entered into by virtue of subsection (2) above shall be made so as to remain in force for no longer than 3 months after the end of the period allowed for the submission of tenders in accordance with the invitation to tender issued under subsection (3) above.
- (5) Subject to subsections (6) and (7) below, where—
- (a) an invitation to tender for the provision of any service is issued under subsection (3) above or subsection (2) of section 18 of this Act; and
  - (b) no tender, or no tender which the authority who issued the invitation consider acceptable, is submitted in response to that invitation,
- any power of that authority to enter into a quality contract in order to secure that service shall cease to be subject to subsection (1) of that section.
- (6) Any quality contract which is entered into by an authority by virtue of subsection (5) above shall be made so as to remain in force for no longer than the period specified in section 18(3) of this Act.
- (7) On entering into a quality contract such as is mentioned in subsection (6) above the authority shall publish in such manner as may be prescribed by regulations made by the Scottish Ministers either—
- (a) a statement that no tender was submitted in response to that invitation to tender; or
  - (b) a statement of their reasons for considering that no tender so submitted was acceptable,
- as the case may require.

VALID FROM 01/07/2001

## **20 Commencement of quality contract scheme**

- (1) A quality contract scheme shall, in so far as relating to a local service included in it, come into operation—
- (a) where the scheme specifies the date on which, in so far as it relates to such service, it is to come into operation, on the date so specified; and
  - (b) subject to section 21(1) of this Act, where no date is so specified, on such date as is specified in or determined under the quality contract.

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- (2) Not later than 14 days after the date on which an authority enter into a quality contract, the authority shall give notice—
  - (a) in at least one local newspaper circulating in the area to which the scheme relates;
  - (b) to all operators of local services who are, in the opinion of the authority, likely to be affected by the quality contract; and
  - (c) to the traffic commissioner.
- (3) The notice shall state—
  - (a) the local services to be provided under the quality contract;
  - (b) the date (or dates) on which the scheme shall, in so far as it relates to the local services to be provided under that quality contract, come into operation; and
  - (c) the duration of the quality contract.

VALID FROM 01/07/2001

## **21 Postponement of quality contract scheme**

- (1) Subject to any regulations made under subsection (4) below, if it appears to the local transport authority who made a quality contract scheme reasonable to do so, they may postpone the date on which the scheme would, in so far as relating to a local service included in it, come into operation by virtue of section 20(1)(b) of this Act by such period, not exceeding 12 months, as they think fit.
- (2) Before postponing a date under subsection (1) above, an authority shall consult all operators of local services who are, in the opinion of the authority, likely to be affected by the postponement.
- (3) Not later than 14 days after the date on which an authority postpone a date under subsection (1) above the authority shall give notice of the postponement—
  - (a) in at least one local newspaper circulating in the area to which the scheme relates;
  - (b) to all operators of local services who are, in the opinion of the authority, likely to be affected by the postponement; and
  - (c) to the traffic commissioner.
- (4) The Scottish Ministers may by regulations make provision with respect to postponements under subsection (1) above.
- (5) The regulations may in particular make provision—
  - (a) as to the maximum period of postponements; and
  - (b) requiring authorities to reissue invitations to tender in accordance with section 18 of this Act.

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VALID FROM 01/07/2001

## 22 Effect of quality contract scheme

- (1) During any period when a quality contract scheme is in operation in relation to any local service included in the scheme—
  - (a) sections 6 to 9 of the 1985 Act (registration of local services) shall not have effect in relation to such service; and
  - (b) no such service shall be provided other than under a quality contract.
- (2) If, in relation to a scheme, a local service is neither included in the scheme nor, by virtue of provision such as is mentioned in section 14(3) of this Act, excluded from the scheme, then the local service shall not, during the period beginning on the operational date and ending on the date on which the scheme ceases to have effect, be provided in the area to which the scheme relates.
- (3) Where a scheme specifies conditions such as are mentioned in section 14(3) of this Act, those conditions shall be treated, during the period beginning on the operational date and ending on the date on which the scheme ceases to have effect, as if they were prescribed particulars registered under section 6 of the 1985 Act (registration of local services) of the service concerned.

VALID FROM 01/07/2001

## 23 Variation or revocation of quality contract scheme

- (1) Subject to subsections (5) and (6) below, a local transport authority who made a quality contract scheme may vary it by—
  - (a) increasing, to no greater than the whole of their area, the area to which it relates;
  - (b) adding to the description of local services which are to be provided under quality contracts;
  - (c) reducing the area to which it relates;
  - (d) reducing the description of services which are to be provided under quality contracts;
  - (e) postponing any date specified in the scheme as a date on which the scheme would, in so far as it relates to any local service included in it, otherwise come into operation; or
  - (f) providing for new exclusions from the scheme or for the variation or revocation of existing exclusions.
- (2) A scheme may not be varied under subsection (1)(a) or (b) above unless the conditions set out in paragraphs (a) and (b) of section 13(1) of this Act (in this section referred to as the “relevant conditions”) are met with respect to the scheme as varied.
- (3) A scheme may not be varied under subsection (1)(c) or (d) above unless—
  - (a) either of the relevant conditions is no longer met with respect to it; and
  - (b) both of those conditions are met with respect to the scheme as varied.



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- (4) Subject to subsections (5) and (6) below, the authority who made a scheme (or, where a scheme was made by two or more authorities, one of them) may revoke it—
  - (a) if either of the relevant conditions is no longer met with respect to it; or
  - (b) if the authority (or one of them) make (or make jointly with one or more other authorities) a quality contract scheme covering such part of their area as was covered by the scheme being revoked.
- (5) An authority may not, unless they have obtained the approval of the Scottish Ministers to their proposal for a variation or revocation of a scheme under subsection (1) or (4) above, vary or revoke the scheme.
- (6) Where the Scottish Ministers have approved a proposed variation or revocation of a scheme, section 17 of this Act shall apply to that variation or revocation as that section applies to the making of a scheme but subject to such modifications as the Scottish Ministers may by regulations specify.
- (7) The Scottish Ministers may by regulations provide that in such circumstances as may be prescribed quality contract schemes may be revoked by them before coming into operation.

VALID FROM 01/07/2001

#### **24 Reports on quality contract schemes**

- (1) In relation to each quality contract scheme made by them, a local transport authority shall, for each successive period of 12 months during which the scheme is in operation (the first period being taken to begin on the operational date), prepare and submit to the Scottish Ministers a report on the effectiveness of the scheme.
- (2) In preparing a report under subsection (1) above an authority shall have regard to any representations relating to—
  - (a) local services in their area; and
  - (b) any facilities provided by virtue of the scheme, made to them during the period to which the report relates.
- (3) An authority may require any operator of a local service to provide such information as the authority may specify for or in connection with the preparation of a report under subsection (1) above; and in so far as the provision of such information would be reasonable, the operator shall comply with any such requirement.
- (4) Any report under this section shall be submitted not later than 6 months after the end of the period to which it relates.

VALID FROM 01/07/2001

#### **25 Non-implementation of quality contract scheme**

- (1) Where a local transport authority have not, within 12 months of the date on which they made a quality contract scheme, entered into a quality contract in respect of

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each local service included in the scheme, the scheme shall, subject to subsection (2) below, cease to have effect.

(2) If within the period mentioned in subsection (1) above an authority seek the approval of the Scottish Ministers to a proposed variation of a scheme and after the expiry of that period—

- (a) the Scottish Ministers refuse to approve the proposed variation; or
- (b) the Scottish Ministers having approved the proposed variation, the authority fail to comply with section 23(6) of this Act,

then the scheme shall, on the date of such refusal or, as the case may be, on the date which is six months (or such other period as may, by virtue of that section, be specified) after the date of the approval, cease to have effect.

## 26 Regulations as respects quality contract schemes

- (1) The Scottish Ministers may by regulations make further provision with respect to—
- (a) the procedure to be followed when making, varying or revoking quality contract schemes;
  - (b) the approval of proposed schemes;
  - (c) the local services or classes of local services which shall, or may, be excluded from schemes;
  - (d) the conditions which shall, or may, be attached to such exclusions; and
  - (e) such other incidental matters in connection with quality contract schemes as the Scottish Ministers think fit.
- (2) The regulations may in particular make provision with respect to—
- (a) the giving of notice of proposed schemes or any proposed variations or revocations of schemes;
  - (b) objections to such proposals;
  - (c) the holding of inquiries or hearings into objections;
  - (d) modifications of such proposals;
  - (e) the form, content and manner of applications for approval of such proposals;
  - (f) the form of schemes or variations; and
  - (g) the giving of notice of schemes which have been made or of variations or revocations of schemes.

VALID FROM 01/07/2001

## 27 Transitional provision as respects quality contract schemes

- (1) The Scottish Ministers may by regulations make such transitional provision as they consider appropriate in connection with—
- (a) the coming into operation of quality contract schemes;
  - (b) the variation of such schemes; and
  - (c) the ending of such schemes (whether or not as a result of their revocation).
- (2) The regulations may in particular provide that in such circumstances as may be prescribed—

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- (a) any provision of sections 6 to 9 of the 1985 Act (registration of local services) which would otherwise have effect—
  - (i) shall not have effect; or
  - (ii) shall have effect subject to such modifications as may be prescribed;or
- (b) any such provision which would not otherwise have effect—
  - (i) shall have effect; or
  - (ii) shall have effect subject to such modifications as may be prescribed, in relation to the whole or any part of the area to which a scheme relates or to any local service provided in that area.

VALID FROM 01/07/2001

### *Ticketing arrangements and ticketing schemes*

#### **28 Ticketing arrangements**

- (1) Each local transport authority shall from time to time determine what ticketing arrangements should be made available for their area (in this section referred to as the “required ticketing arrangements”).
- (2) Before making such a determination, the authority shall consult such organisations appearing to the authority to be representative of users of local services as they think fit.
- (3) Each authority shall from time to time ascertain whether the required ticketing arrangements are being made available.
- (4) If an authority ascertain that the required ticketing arrangements are not being made available, that authority shall seek to make arrangements with the operator or operators of the local services concerned under which the operator or operators agree to make the required ticketing arrangements available.
- (5) In this section and in section 29 of this Act “ticketing arrangements” means arrangements under which persons may become entitled—
  - (a) to make more than one journey on particular local services (whether or not operated by the same person);
  - (b) to make a particular journey on two or more local services (whether or not operated by the same person); or
  - (c) where a particular journey could be made on local services provided by either (or any) of two or more operators, to make the journey on whichever service the holder chooses,by entering into a single transaction of such description as the operator or operators of such services may require.

#### **29 Ticketing schemes**

- (1) If a local transport authority are unable to make satisfactory arrangements in pursuance of section 28(4) of this Act they, or two or more such authorities acting

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jointly, may make a ticketing scheme covering the whole or any part of their area, or combined area, if they consider that the proposed scheme—

- (a) would be in the interests of the public; and
- (b) would to any extent implement their relevant general policies.

- (2) In this section (other than subsection (1) above) and in sections 30 and 31 of this Act any reference to a local transport authority shall be construed, in any case where a ticketing scheme is made (or proposed to be made) by two or more such authorities acting jointly, as a reference to both (or, as the case may be, all) of those authorities.
- (3) A ticketing scheme is a scheme under which operators of local services of a class specified in the scheme are required to make and implement ticketing arrangements.
- (4) A ticketing scheme may not be made unless the authority have complied with the notice and consultation requirements imposed by section 30 of this Act.
- (5) A ticketing scheme may, for the purposes of making provision in relation to journeys such as are mentioned in paragraph (a) of section 28(5) of this Act, specify a class of local services.
- (6) A ticketing scheme may specify different arrangements in respect of different classes of local service.

### **30 Consultation as to proposed ticketing scheme**

- (1) If a local transport authority propose to make a ticketing scheme, they shall give notice of the proposed scheme in at least one local newspaper circulating in the area to which it relates.
- (2) The notice shall specify the date on which it is proposed that the proposed scheme will come into operation.
- (3) After giving notice of the proposed scheme, the authority shall consult—
  - (a) all operators of local services who are, in the opinion of the authority, likely to be affected by it;
  - (b) such organisations appearing to the authority to be representative of users of local services as they think fit;
  - (c) the traffic commissioner; and
  - (d) such other persons as the authority think fit.

### **31 Making of ticketing scheme**

- (1) If, having complied with section 30 of this Act, the authority decide that it is appropriate to make a ticketing scheme, they may make it—
  - (a) in the form proposed; or
  - (b) subject to such modifications as they may specify.
- (2) The scheme shall specify the date (being a date not earlier than 3 months after the date on which the scheme is made) on which it is to come into operation.
- (3) Not later than 14 days after the date on which a scheme is made, the authority shall give notice of it—
  - (a) in at least one local newspaper circulating in the area to which the scheme relates;

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- (b) to all operators of local services who are, in the opinion of the authority, likely to be affected by it;
  - (c) to the traffic commissioner; and
  - (d) in such other manner, or to such other persons or class of person (if any), as the Scottish Ministers may prescribe by regulations.
- (4) The notice shall—
- (a) set out the scheme and the date on which it is to come into operation; and
  - (b) identify the classes of local service which will be affected by it.

### **32 Effect of ticketing scheme**

- (1) During any period in which a ticketing scheme is in operation, operators of local services to which the scheme relates shall make and implement the arrangements required by the scheme.
- (2) The arrangements required by a ticketing scheme shall be treated, during any period in which the scheme is in operation, as if they were prescribed particulars registered under section 6 of the 1985 Act (registration of local services) of the service concerned.

VALID FROM 01/07/2001

## *Provision of information*

### **33 Information about bus services**

- (1) Each local transport authority shall from time to time determine, having regard to their relevant general policies—
- (a) what local bus information should be made available to the public (in this section referred to as the “required information”); and
  - (b) the way in which it should be made available (in this section and in section 34 of this Act referred to as the “appropriate way”).
- (2) Before making such a determination, the authority shall consult—
- (a) the traffic commissioner;
  - (b) such organisations appearing to the authority to be representative of users of local services as they think fit; and
  - (c) such other persons as the authority think fit.
- (3) Each authority shall from time to time ascertain whether the required information is being made available to the public in the appropriate way.
- (4) If an authority ascertain that the required information is not being made available to the public in the appropriate way the authority shall seek to make arrangements with the operator or operators of the local services concerned under which the operator or operators agree to make the information available in that way.
- (5) In this section—
- “local bus information”, in relation to a local transport authority, means—

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- (a) information about routes and timetabling of local services to, from and within the authority’s area;
- (b) information about fares for journeys on such local services; and
- (c) such other information about facilities for disabled persons, travel concessions, connections with other public passenger transport services (within the meaning of the 1985 Act) or other matters of value to the public as the authority consider appropriate in relation to their area; and

“travel concession” has the meaning given by section 68(7) of this Act.

- (6) This section and sections 34 and 35 of this Act do not apply to any local authority to the extent that any part of the area of the authority is comprised in the passenger transport area of the Strathclyde Passenger Transport Authority.

### **34 Duty of authority to make information available**

- (1) If a local transport authority are unable to make satisfactory arrangements in pursuance of section 33(4) of this Act, they, or two or more such authorities acting jointly—
  - (a) shall make available, or secure that there is made available, in such manner as they determine, such information as is not being made available in the appropriate way in their area, or each of their areas (whether by virtue of arrangements made under section 33(4) of this Act or otherwise); and
  - (b) may recover from the operator or operators of the local services concerned the reasonable costs incurred by them in doing so as a civil debt due to them.
- (2) In determining for the purposes of subsection (1)(b) above what is reasonable in relation to a particular operator, the authority, or as the case may be authorities, shall have regard to—
  - (a) the amount of information which has to be made available; and
  - (b) the way in which that information has to be made available,
 in respect of the local services provided by that operator.
- (3) If the authority, or as the case may be authorities, require an operator to provide information to them or another person in order to perform their duty under subsection (1)(a) above, the operator shall provide the information at such times and in such manner as may be specified by the authority (or authorities).
- (4) The authority, or as the case may be authorities, shall give notice to the traffic commissioner of any requirement imposed under subsection (3) above.

### **35 Bus information: supplementary**

In carrying out their functions under sections 33 and 34 of this Act, local transport authorities—

- (a) shall act in the manner which is, in the opinion of the authority, most economic, efficient and effective; and
- (b) shall not act in such a way as to discriminate (whether directly or indirectly) against any operator, or class of operator, of local services.

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### *Financial and competition provisions*

#### **36 Agreements providing for service subsidies**

- (1) Part V of the 1985 Act (expenditure on public passenger transport services) shall be amended as follows.
- (2) In section 89 (obligation to invite tenders for subsidised services)—
  - (a) in subsection (7), after “section” there shall be inserted “ for the provision of services other than those mentioned in subsection (9) below ”; and
  - (b) after subsection (8) there shall be inserted—
    - “(9) An authority issuing an invitation to tender under this section for the provision of any service for the carriage of passengers by road which requires, for the purposes of Part IV of this Act, a PSV operator’s licence, shall, in determining whether to accept a tender submitted in response to the invitation or which (if any) of several such tenders to accept, have regard in particular to—
      - (a) a combination of economy, efficiency and effectiveness;
      - (b) the implementation of—
        - (i) their local transport strategy; and
        - (ii) the general policies formulated by them under section 63(2)(b) of this Act or section 9A(1) of the Transport Act 1968 (c.73), as the case may be; and
      - (c) the reduction or limitation of traffic congestion, noise or air pollution.
  - (10) In subsection (9)(b)(i) above, “local transport strategy” has the meaning given by section 82(1) of the Transport (Scotland) Act 2001 (asp 2).”.
- (3) In section 90(3) (duty of authority to publish reasons for considering that payment of subsidies to secure service in accordance with accepted tender is conducive to achieving most effective and economic application of funds), for the words from “is conducive” to the end there shall be substituted “ accords with section 89(7), or as the case may be (9), of this Act. ”.
- (4) In section 92(1) (authorities subsidising public passenger transport services not to inhibit competition between persons providing or seeking to provide such services in their area), for the words from “so” to “provide” there shall be substituted “ have regard to the interests of the public and of persons providing ”.

VALID FROM 01/07/2001

#### **37 Competition test for exercise of bus functions**

- (1) The functions to which this section applies are those of—
  - (a) making and varying quality partnership schemes;
  - (b) making and varying ticketing schemes; and
  - (c) inviting and accepting tenders under section 89 or 91 of the 1985 Act (subsidised services).

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- (2) For the purposes of this section an authority or authorities propose to exercise a function to which this section applies—
  - (a) in the case of the function of making or varying a quality partnership scheme, once notice of a proposal to make or vary it has been given under section 5(1) of this Act;
  - (b) in the case of the function of making or varying a ticketing scheme, once notice of a proposal to make or vary it has been given under section 30(1) of this Act; and
  - (c) in the case of the function of inviting or accepting tenders under section 89 or 91 of the 1985 Act, once it is proposed to invite tenders under section 89(2) or 91(3) of that Act or to accept or not to accept a tender under section 89 of that Act.
- (3) For the purposes of this section the exercise or proposed exercise of a function to which this section applies meets the competition test unless it—
  - (a) has or is likely to have a significantly adverse effect on competition; and
  - (b) is not justified by subsection (4) below.
- (4) The exercise or proposed exercise of a function is justified if—
  - (a) it is with a view to achieving one or more of the purposes specified in subsection (5) below; and
  - (b) its effect on competition is or is likely to be proportionate to the achievement of that purpose or any of those purposes.
- (5) The purposes referred to in subsection (4) above are—
  - (a) securing improvements in the quality of vehicles or facilities used for or in connection with the provision of local services;
  - (b) securing other improvements in local services of substantial benefit to users of local services; and
  - (c) reducing or limiting traffic congestion, noise or air pollution.

### **38 Grants to bus service operators**

- (1) The Scottish Ministers may make grants to operators of eligible bus services towards their costs in operating those services.
- (2) The Scottish Ministers may make provision by regulations as to the method of calculation of grants.
- (3) Subject to any regulations under subsection (2) above, grants under this section shall be of such amount and subject to such conditions (including conditions requiring their repayment in specified circumstances) as the Scottish Ministers may determine.
- (4) A determination under subsection (3) above may be made either generally or in relation to particular cases or classes of case.
- (5) In this section “eligible bus services” means services of a class using public service vehicles (or such services using a class of public service vehicles) prescribed by regulations made by the Scottish Ministers.



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- (6) Section 92 of the Finance Act 1965 (c.25) (grants towards duty charged on bus fuel) and section 111 of the 1985 Act (unregistered and unreliable local services: reduction of fuel duty grant) are repealed.

#### Commencement Information

- II** S. 38 wholly in force; s. 38 not in force at Royal Assent see. 84(2); s. 38(2) in force at 1.4.2001; S.S.I. 2001/132, art. 2 Sch.; s. 38 in force at 1.7.2002 insofar as not already in force by S.S.I. 2002/291 art. 2(a)

VALID FROM 01/07/2002

### 39 Penalties

- (1) Where the traffic commissioner is satisfied that the operator of a local service has, without reasonable excuse—
- failed to operate a local service registered under section 6 of the 1985 Act;
  - operated a local service in contravention of that section or section 8(4) or 22(1)(b) or (2) of this Act; or
  - failed to comply with section 32(1) or 34(3) of this Act,
- the commissioner may impose a penalty on the operator.
- (2) Subject to subsection (3) below, a penalty imposed under subsection (1) above shall be of such amount as the traffic commissioner thinks fit in all the circumstances of the case.
- (3) The amount of a penalty mentioned in subsection (2) above shall not exceed—
- £550; or
  - such other amount as the Scottish Ministers may by order specify,
- multiplied by the total number of vehicles which the operator is licensed to use under all the PSV operator's licences held by him.
- (4) Any penalty imposed under subsection (1) above shall be payable to the Scottish Ministers.
- (5) Where a penalty has been imposed on an operator under subsection (1) above, the traffic commissioner shall forthwith give notice in writing to—
- the Scottish Ministers; and
  - the operator.
- (6) Any operator on whom a penalty has been imposed under subsection (1) above may appeal to the Transport Tribunal against the imposition of the penalty.
- (7) Any amount due under this section shall be recoverable as a civil debt.

### 40 Repayment of grants towards bus fuel duty

- (1) Section 111 of the 1985 Act (unregistered and unreliable local services: requirement to repay twenty per cent. of bus fuel duty grants) shall be amended as follows (until the coming into force of section 38(6) of this Act).

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(2) For subsection (1) there shall be substituted—

“(1) Where the traffic commissioner for the Scottish Traffic Area is satisfied that the operator of a local service has, without reasonable excuse—

- (a) failed to operate a local service registered under section 6 of this Act;
- (b) operated a local service in contravention of that section or section 8(4) or 22(1)(b) or (2) of the Transport (Scotland) Act 2001 (asp 2); or
- (c) failed to comply with section 32(1) or 34(3) of that Act,

he may make a determination to that effect.”.

(3) In subsection (3), for the words “twenty per cent.” there shall be substituted “ such percentage as the traffic commissioner thinks fit ”.

(4) After subsection (3) there shall be inserted—

“(3A) The percentage determined under subsection (3) above shall be at least one per cent. but not more than twenty per cent.”.

#### Commencement Information

- I2** S. 40 wholly in force at 1.7.2001; s. 40 not in force at Royal Assent see s. 84(2); s. 40(1)(3)(4) in force at 1.4.2001 and s. 40(2) in force at 1.7.2001 by S.S.I. 2001/132, art. 2 Sch.

#### Miscellaneous

### 41 Bus User Complaints Tribunal

(1) The Scottish Ministers may by regulations establish a tribunal to be known as the Bus User Complaints Tribunal (referred to in this section as the “Tribunal”) for the purpose of determining any written complaint made by or on behalf of any individual—

- (a) about the manner in which a relevant complaint has been dealt with; or
- (b) appealing against a decision made on a relevant complaint.

(2) Any Tribunal established by virtue of subsection (1) above shall consist of—

- (a) a convener; and
- (b) two other members,

appointed by the Scottish Ministers.

(3) Regulations under subsection (1) above may in particular make provision for or in connection with—

- (a) the form of written complaints and the time within which they may be submitted for determination by the Tribunal;
- (b) the procedure to be followed by the Tribunal in determining complaints;
- (c) the matters to which the Tribunal shall have regard in determining complaints;
- (d) the powers of the Tribunal on making determinations (including, without prejudice to the generality of this paragraph, power requiring the payment of compensation);
- (e) the tenure of office of members of the Tribunal;
- (f) the payment of remuneration and allowances to members of the Tribunal;

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- (g) the making of reports to the Scottish Ministers on such matters, and at such times, as may be specified in the regulations;
  - (h) requiring the Scottish Ministers to lay before the Scottish Parliament copies of any reports made under paragraph (g) above;
  - (i) the making of reports to the traffic commissioner on such matters, and at such times, as may be specified in the regulations;
  - (j) appeals from determinations of the Tribunal;
  - (k) such other matters as the Scottish Ministers consider necessary or expedient for the purpose of enabling the Tribunal to perform its functions.
- (4) Where a Tribunal is established by virtue of subsection (1) above, the traffic commissioner shall—
- (a) provide, or make available, to the Tribunal such staff as the Scottish Ministers consider necessary;
  - (b) pay—
    - (i) any remuneration and allowances due to members of the Tribunal or staff of the Tribunal; and
    - (ii) any other expenses relating to the establishment or operation of the Tribunal; and
  - (c) provide the Tribunal with such other assistance as it may reasonably request for the purposes of performing its functions.
- (5) Any compensation payable by virtue of subsection (3)(d) above shall be recoverable as a civil debt.
- (6) The Scottish Ministers shall pay to the traffic commissioner such amount as is agreed between them to be appropriate to reimburse any expenditure incurred by the commissioner by virtue of subsection (4) above.
- (7) In subsection (1) above “relevant complaint” means any written complaint made by or on behalf of any individual to an operator of local services which relates to the operation of any local service operated by such operator.

#### **42 Traffic regulation conditions to reduce or limit noise or air pollution**

In subsection (4) of section 7 of the 1985 Act (reasons for which traffic regulation conditions may be determined)—

- (a) the word “or” immediately after paragraph (a) is repealed; and
- (b) after paragraph (b) there shall be inserted “; or
- (c) reduce or limit noise or air pollution.”.

#### **43 Power to obtain information about local services**

- (1) A local transport authority may, in connection with the formulation of their relevant general policies, require an operator of local services to provide them with any information relating to the matters mentioned in subsection (2) below which is in the possession or control of the operator; and the operator shall comply with any such requirement.
- (2) The matters are—
- (a) the total number of journeys undertaken by passengers on the local services operated by the operator in the authority’s area or any part of such area;

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- (b) the structure of fares for those journeys; and
  - (c) the total distance covered by vehicles used by the operator in operating those local services.
- (3) An operator may be required to provide information under this section in any form in which, having regard to the manner in which the information is kept, it is reasonable to expect the operator to provide it.
- (4) Subject to subsection (5) below, no information which—
- (a) has been provided to a local transport authority under this section, or provided together with information so provided; and
  - (b) relates to the affairs of an individual or to a particular business,
- shall be disclosed by such authority during the lifetime of the individual or while the business continues to be carried on.
- (5) Subsection (4) above does not apply to a disclosure—
- (a) made with the consent of the individual or the person for the time being carrying on the business;
  - (b) of information provided by virtue of section 10(3) or 24(3) of this Act;
  - (c) made in connection with the investigation of crime or for the purposes of criminal proceedings;
  - (d) made for the purposes of civil proceedings brought by virtue of this Act or the 1985 Act;
  - (e) made in order to comply with the order of a court or tribunal; or
  - (f) made in respect of a local service—
    - (i) if the operator of such service has given notice in writing to the local transport authority or the traffic commissioner of the operator's intention to cease operating such service from a date specified in the notice; or
    - (ii) if, having failed to provide notice such as is mentioned in subparagraph (i) above, such operator has ceased to operate such service.
- (6) A local transport authority who, without reasonable excuse, disclose information in contravention of subsection (4) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) Where an offence under subsection (6) above committed by a local transport authority is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a person employed by the authority, the person as well as the authority is guilty of the offence and liable to be proceeded against and punished accordingly.

#### **44 Civil penalties for bus lane contraventions**

- (1) The Scottish Ministers may by regulations make provision for or in connection with—
- (a) the imposition by approved local authorities of charges in respect of bus lane contraventions; and
  - (b) the payment of such charges.
- (2) An authority is an approved local authority if—

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- (a) an order designating the whole or any part of their area has been made under paragraph 1(1)(d) or 2(1)(c) of Schedule 3 to the Road Traffic Act 1991 (c.40) (permitted and special parking areas outside London); and
  - (b) the Scottish Ministers have made an order specifying them as an approved local authority for the purposes of this section.
- (3) A bus lane contravention is a contravention of any such provision of—
  - (a) a traffic regulation order;
  - (b) an experimental traffic order; or
  - (c) a temporary traffic restriction order,as relates to the use of an area of road which is or forms part of a bus lane.
- (4) For the purposes of subsection (3) above, an area of road is or forms part of a bus lane if the order in question provides that it may be used—
  - (a) only by buses; or
  - (b) only by buses and some other class or classes of traffic specified in the order.
- (5) Regulations under subsection (1) above shall include provision—
  - (a) for the setting of the rates of charges (which may include provision for surcharges or discounts) by approved local authorities;
  - (b) that any rates set by virtue of paragraph (a) above shall be effective only if they have been approved by the Scottish Ministers;
  - (c) specifying that any charge shall be paid—
    - (i) by the registered keeper of the motor vehicle; or
    - (ii) in such circumstances as may be specified in the regulations, by such other person as may be so specified;
  - (d) permitting the imposition of a charge only on the basis of a record produced by an approved device;
  - (e) securing that a charge in respect of a bus lane contravention shall not require to be paid, or shall be refunded, where—
    - (i) the contravention is the subject of criminal proceedings; or
    - (ii) a fixed penalty notice has been given in respect of the contravention;and
  - (f) that any sums paid by way of charges to an approved local authority shall be available only for application by such authority for the purpose of directly or indirectly facilitating the achievement of policies in such authority's local transport strategy.
- (6) Regulations under subsection (1) above may—
  - (a) specify exemptions from charges; and
  - (b) make provision about the keeping of accounts, and the preparation and publication of statements of account, relating to sums paid by way of charges.
- (7) The Scottish Ministers may make regulations about the notification, adjudication and enforcement of charges.
- (8) Regulations under subsection (7) above may include—
  - (a) provision creating criminal offences to be triable summarily and punishable with a fine not exceeding level 5 on the standard scale or such lower amount as may be prescribed by the regulations; and

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- (b) provision for or in connection with permitting sufficient evidence of a fact to be given by the production of a record produced by an approved device with a certificate as to the circumstances in which the record was produced, but may not confer power to stop motor vehicles.

(9) In this section—

“approved device” means a device of a description specified in an order made for the purposes of this section by the Scottish Ministers;

“experimental traffic order” means an order under section 9 of the Road Traffic Regulation Act 1984 (c.27);

“fixed penalty notice” has the same meaning as in Part III of the Road Traffic Offenders Act 1988 (c.53); and

“temporary traffic restriction order” means an order under section 14 or 16A of the Road Traffic Regulation Act 1984 (c.27).

VALID FROM 01/07/2001

#### **45 Registered services: minimum period of operation**

In section 6 of the 1985 Act (registration of local services)—

- (a) in subsection (3), for the words “subsection (2) above” there shall be substituted “ this section ”; and  
 (b) after subsection (8) there shall be inserted—

“(8A) Where a service is registered under this section or, as the case may be, a registration is varied under this section, the operator of the service which has been registered, or in respect of which the registration has been varied, shall provide that service for a period of at least 90 days (or, as the case may be, such other period as the traffic commissioner may specify) beginning with the day on which the period of notice expires or, as the case may be, the variation becomes effective.”.

#### **46 Power to restrict dates on which scheduled timings of local services may be varied**

In section 6 of the 1985 Act (registration of local services)—

- (a) after paragraph (d) of subsection (9) there shall be inserted—

“(da) subject to subsection (10) below, specifying dates as the only dates on which the operator of a local service in the area (or areas) of such local authority (or authorities) as may be specified in the regulations may vary a registration in so far as it relates to the scheduled times of the local service in respect of which the registration is made;”;

and

- (b) after subsection (9) there shall be inserted—

“(10) Regulations making provision such as is mentioned in subsection (9) (da) above may not—

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- (a) have effect for a period of more than three years;
- (b) specify more than four dates in a calendar year as dates on which a registration may be varied.”.

VALID FROM 01/07/2001

#### 47 Co-operation

- (1) In considering whether to make a quality partnership scheme, quality contract scheme or ticketing scheme a local transport authority shall have regard to the desirability, in appropriate cases, of making a scheme jointly with another authority.
- (2) A local transport authority shall, in determining their opinion under paragraph (a) of section 35 of this Act, have regard to the desirability, in appropriate cases, of carrying out their functions under sections 33 and 34 of this Act jointly with another authority (whether as respects the whole or any part of their combined area).
- (3) Local transport authorities shall in carrying out their functions—
  - (a) under this Part of this Act in relation to quality partnership schemes, quality contract schemes and ticketing schemes; and
  - (b) under sections 33 and 34 of this Act, co-operate with one another.

#### *Interpretation of Part*

#### 48 Interpretation of Part 2

- (1) In this Part of this Act—
  - “community bus permit” means a permit under section 22 of the 1985 Act;
  - “local service” has the meaning given by section 2 of the 1985 Act;
  - “operational date” shall be construed in accordance with section 14(1) of this Act;
  - “police area” means a police area within the meaning of section 1(2) of the Police (Scotland) Act 1967 (c.77);
  - “quality contract” has the meaning given by section 13(6) of this Act;
  - “relevant general policies”, in relation to a local transport authority, means the authority’s local transport strategy and—
    - (a) where the authority is a local authority, the policies formulated by them from time to time under section 63(2)(b) of the 1985 Act;
    - (b) where the authority is the Strathclyde Passenger Transport Authority, the policies formulated by them from time to time under section 9A(1) of the Transport Act 1968 (c.73);
  - “specified facilities” shall be construed in accordance with section 3(3)(a) of this Act;
  - “specified standard” shall be construed in accordance with section 3(3)(b) of this Act;

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“traffic commissioner” means the person appointed from time to time to be the commissioner for Scotland under section 4 of the Public Passenger Vehicles Act 1981 (c.14); and

“traffic regulation order” means an order under—

- (a) the Road Traffic Regulation Act 1984 (c.27); or
- (b) any other enactment (other than this Act),

regulating the use of roads or other places by public service vehicles.

(2) In this Part of this Act the following expressions have the same meaning as in the Public Passenger Vehicles Act 1981 (c.14)—

“fares”;

“modification”;

“public service vehicle”; and

“PSV operator’s licence”.

(3) References in this Part of this Act to the operator of a passenger transport service of any description are to be construed in accordance with section 137(7) of the 1985 Act.



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