



Transport (Scotland) Act 2001

2001 asp 2

PART 2 **S**

BUS SERVICES

[^{F1}CHAPTER 2] **S**

[^{F1}LOCAL SERVICES FRANCHISES]

[^{F1}Postponement, variation and revocation of franchise frameworks]

Textual Amendments

- F1** Pt. 2 Ch. 2 substituted for ss. 13-27 and cross-heading (4.12.2023) by [Transport \(Scotland\) Act 2019](#) (asp 17), **ss. 38(2), 130(2)** (with s. 126); S.S.I. 2023/250, sch.

[^{F1}13M] **Postponing commencement of franchising frameworks or variations** **S**

- (1) A local transport authority may, if they consider it appropriate, decide to postpone the date on which—
 - (a) a franchising framework, or
 - (b) the variation of a franchising framework,would, in so far as relating to a local service in it, come into operation by virtue of section 13K(5)(b) by such period as they think fit.
- (2) But the date on which a framework or variation comes into operation under subsection (1) must not be postponed by a period or periods which in total exceed 12 months.
- (3) Before postponing the date on which a framework or variation comes into operation under subsection (1), a local transport authority must consult all operators of local services who are, in the opinion of the local transport authority, likely to be affected by the postponement.

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- (4) Not later than 14 days after the date on which a local transport authority postpone the date on which a framework or variation comes into operation under subsection (1), the local transport authority must—
- (a) give notice of the postponement to—
 - (i) all operators of local services who are, in the opinion of the authority, likely to be affected by the postponement, and
 - (ii) the traffic commissioner, and
 - (b) publish the notice in such manner as the local transport authority consider appropriate for bringing the notice to the attention of persons in the area to which the franchising framework relates.
- (5) The Scottish Ministers may by regulations make provision in relation to postponements under this section including, in particular, provision reducing or extending the maximum period of postponement in subsection (2).

13N Applications for approval to vary or revoke franchising frameworks S

- (1) This section applies where a local transport authority wish to vary or revoke a franchising framework they have made.
- (2) The local transport authority must—
- (a) request that the traffic commissioner convene a panel under section 130(2) for the purpose of considering whether to approve the proposed variation or revocation of the franchising framework, and
 - (b) provide the traffic commissioner with an application for approval to vary or, as the case may be, revoke the framework.
- (3) An application under subsection (2)(b) must—
- (a) state the local transport authority's reasons for wishing to vary or revoke the framework,
 - (b) set out how, and to what extent, the local transport authority consider the variation or revocation will contribute to the implementation of their relevant general policies,
 - (c) in the case of a proposal to vary the framework—
 - (i) set out how it is proposed to vary the framework,
 - (ii) describe the expected effect that varying the framework will have on the matters set out in the assessment (or, if more than one, the most recent assessment) of the framework prepared under section 13E, and
 - (iii) if a new assessment is not being prepared, state that the local transport authority do not consider it necessary to prepare a new assessment of the framework as it is proposed to be varied,
 - (d) include any other information that the local transport authority think will assist the panel convened under section 130 in deciding whether or not to approve the proposed variation or revocation.
- (4) If a local transport authority consider that the proposed variation will materially affect any part of the assessment (or, as the case may be, the most recent assessment) prepared under section 13E that relates to a matter set out in subsection (2) of that section, they must prepare a new assessment of the proposed framework as varied.

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- (5) Where a local transport authority consider under subsection (4) that they are required to prepare a new assessment—
- (a) sections 13E to 13H apply to the framework as it is proposed to be varied as they apply to a proposed franchising framework, and
 - (b) the local transport authority must, as part of the application under subsection (2)(b), provide to the traffic commissioner—
 - (i) the new assessment,
 - (ii) the report of the auditor on the new assessment,
 - (iii) a summary of the responses received to the consultation carried out under section 13G in respect of the new assessment and any action (other than a modification under section 13H) that was taken to address the responses, and
 - (iv) a description and explanation of any modifications made to the framework as it is proposed to be varied under section 13H.

130 Approval to vary or revoke franchising frameworks S

- (1) This section applies where the traffic commissioner has received a request to convene a panel under section 13N(2)(a).
- (2) The traffic commissioner must—
- (a) give notice of the local transport authority's application to vary or revoke the proposed framework in such manner as the commissioner considers appropriate for bringing the notice to the attention of persons in the area of the authority,
 - (b) appoint three persons to form a panel to decide whether or not to approve the proposed variation or revocation of the franchising framework,
 - (c) provide the panel with the application provided to it under section 13N(2)(b),
 - (d) provide the panel with any representations made to the commissioner in connection with the application.
- (3) A notice given under subsection (2)(a) must state—
- (a) that representations may be made to the traffic commissioner in relation to the proposed variation or revocation, and
 - (b) the period within which such representations may be made.
- (4) Where the application is to vary the framework, the panel may decide—
- (a) to approve the proposed variation,
 - (b) to approve the proposed variation of the framework subject to the local transport authority making such modifications to the framework as it is proposed to be varied as the panel may specify, or
 - (c) not to approve the proposed variation.
- (5) Where the application is to revoke the framework, the panel may decide—
- (a) to approve the revocation,
 - (b) to approve the revocation subject to the local transport authority taking such further action before revoking the framework as the panel may specify in its decision, or
 - (c) not to approve the revocation.

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- (6) In making its decision under subsection (4) or, as the case may be (5), the panel must consider whether the local transport authority have reached a reasonable conclusion in deciding to vary or revoke the framework.
- (7) Where the panel has approved the variation or revocation of a framework, section 13K applies to that variation or revocation as it applies to the making of a framework.

13P Reports on franchising frameworks S

- (1) A local transport authority must, in relation to each franchising framework made by them, for each successive period of 12 months during which the framework is in operation, prepare and publish a report on the effectiveness of the framework.
- (2) For the purposes of subsection (1), the first period is to begin on the date on which local services start to be provided under a franchise agreement entered into under the framework.
- (3) In preparing a report under subsection (1), the local transport authority must—
 - (a) consult such persons as they consider appropriate for the purpose of assessing the effectiveness of the framework, and
 - (b) consider any representations made to them (whether as part of the consultation or otherwise) in relation to the effectiveness of the framework during the period under review.

13Q Non-implementation of franchising frameworks S

- (1) A franchising framework is to cease to have effect on the date which falls at the end of the period of 12 months beginning with the day on which the framework was made unless—
 - (a) the local transport authority which made the framework have entered into a franchise agreement in respect of each local service included in the framework, or
 - (b) subsection (3) applies.
- (2) Subsection (3) applies where—
 - (a) within the period specified in subsection (1), the local transport authority—
 - (i) have failed to enter into a franchise agreement in respect of each local service included in the framework, and
 - (ii) have provided the traffic commissioner with an application for approval to vary the framework, and
 - (b) after the end of that period—
 - (i) the panel convened under section 13O to consider that application refuses to approve the proposed variation, or
 - (ii) the panel so convened has approved the proposed variation but the local transport authority have not varied the framework within the period specified in section 13K(2) (as applied by section 13O(7)).
- (3) The franchising framework is to cease to have effect—
 - (a) on the date that the panel refuse to approve the variation, or
 - (b) as the case may be, on the date which falls at the end of the period of 6 months after the date of approval.

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- (4) The Scottish Ministers may by regulations amend subsections (1) and (3) so as to provide for a different period from those for the time being specified in those subsections.

13R Provision of information: local services franchises **S**

- (1) This section applies if a local transport authority are exercising any of the following functions—
- (a) preparing and making a franchising framework,
 - (b) reviewing the effectiveness of a franchising framework, or
 - (c) determining whether and how to vary, or revoke, a franchising framework.
- (2) The local transport authority may require an operator of a local service in the relevant area to provide them with such relevant information relating to the function being exercised as they may specify.
- (3) The local transport authority must specify the function it is exercising when requiring the provision of relevant information.
- (4) The operator may be required to provide the information —
- (a) in any form which, having regard to the manner in which the information is kept, it is reasonable to expect the operator to provide, and
 - (b) before the end of such period as may be specified by the local transport authority.
- (5) A local transport authority that have obtained relevant information under this section may only—
- (a) use the information for the purpose of exercising the function for which it was obtained, and
 - (b) supply the information to a person listed in subsection (6) for use in connection with that function.
- (6) The persons are—
- (a) a local transport authority,
 - (b) an auditor appointed by the local transport authority under section 13F,
 - (c) any other person providing services to the local transport authority in connection with the function being exercised,
 - (d) a panel appointed under section 13J(2) or 13O(2).
- (7) A person who receives relevant information under subsection (5)(b) must not disclose it to any other person or use it in connection with a purpose other than the specified function.
- (8) A person who, without reasonable excuse, discloses information in contravention of this section commits an offence.
- (9) A person who commits an offence under subsection (8) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (10) Where an offence under subsection (8) committed by a local transport authority is proved to have been committed with the consent or connivance of, or to be attributable to the neglect on the part of, a person employed by the authority, the person as well as

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the authority is guilty of the offence and liable to be proceeded against and punished accordingly.

- (11) In this section, “relevant information” means information of a description specified in regulations made by the Scottish Ministers.
- (12) Regulations under subsection (11) may specify circumstances in which relevant information (or types of relevant information) may not be required by a local transport authority.

13S Multi-authority franchising S

- (1) Two or more local transport authorities may act jointly to make a franchising framework and enter into a franchise agreement (or agreements) under this chapter.
- (2) In those circumstances, unless the context otherwise requires, a reference in this chapter (other than this section) to—
 - (a) a local transport authority, in relation to a franchising framework or a franchise agreement or to a proposed framework or agreement, is a reference to the authorities acting jointly,
 - (b) the area of a local transport authority is a reference to the combined areas of the authorities,
 - (c) the relevant general policies of a local transport authority is a reference to the relevant general policies of each local transport authority.
- (3) Where two or more local transport authorities act jointly to make a franchising framework or enter into a franchise agreement, they must continue to act jointly in relation to the framework or agreement in all respects.

13T Further provision about franchising arrangements S

- (1) The Scottish Ministers may by regulations make further provision for or in connection with the provisions of this chapter.
- (2) The regulations may, in particular, make provision with respect to—
 - (a) the process to be followed when making, varying or revoking a franchising framework, including—
 - (i) the form and content of any notice, statement, report, document or application required in connection with the process,
 - (ii) prescribing time periods for carrying out aspects of the process,
 - (iii) the assessment and audit of proposed franchising frameworks,
 - (iv) the consultation processes to be followed,
 - (v) the holding of inquiries or hearings in connection with objections or representations,
 - (vi) the approval of making proposed franchising frameworks or proposals to vary or revoke franchising frameworks,
 - (b) the standards and requirements that a franchising framework may specify in respect of the accessibility of local services for disabled persons and persons with limited mobility,
 - (c) the local services, or descriptions of local services that must, or may, be exempted from franchising frameworks and the conditions that must, or may, be attached to such exclusions,

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- (d) the panels to be convened under section 13J(2) and 13O(2) and their functions, including provision about—
 - (i) the appointment, removal and replacement of members (including the criteria to be considered for appointment as a panel member),
 - (ii) the remuneration of panel members (including as to payment of panel members' expenses),
 - (iii) the process to be followed by the panel in making decisions.
- (3) The regulations may also make transitional provision in connection with—
 - (a) the coming into operation of franchising frameworks,
 - (b) the variation of frameworks, and
 - (c) the ending of frameworks (whether or not as a result of their revocation).
- (4) In particular, regulations in pursuance of subsection (3) may provide for the application, disapplication or modification of the effect of any provision of section 6 to 9 of the 1985 Act in such circumstances as may be prescribed.
- (5) In this chapter, “prescribed” means prescribed by regulations made under this section.]

^{F1}14 Proposed quality contract scheme S

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^{F1}15 Consultation as to proposed quality contract scheme S

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^{F1}16 Approval of proposed quality contract scheme S

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^{F1}17 Making of quality contract scheme S

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^{F1}18 Tendering for quality contracts S

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^{F1}19 Exceptions from section 18(1) S

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^{F1}20 Commencement of quality contract scheme S

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^{F1}21 Postponement of quality contract scheme S

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- ^{F1}22 Effect of quality contract scheme S**
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- ^{F1}23 Variation or revocation of quality contract scheme S**
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- ^{F1}24 Reports on quality contract schemes S**
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- ^{F1}25 Non-implementation of quality contract scheme S**
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- ^{F1}26 Regulations as respects quality contract schemes S**
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- ^{F1}27 Transitional provision as respects quality contract schemes S**
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- [^{F2}27C National Smart Ticketing Advisory Board S**
- (1) The Scottish Ministers must establish an advisory committee to be known as the National Smart Ticketing Advisory Board (“the Board”).
 - (2) The function of the Board is to advise the Scottish Ministers in relation to their functions insofar as they relate to—
 - (a) smart ticketing arrangements, and
 - (b) the national technological standard for smart ticketing.
 - (3) The Board also has the function of issuing advice and recommendations to the Scottish Ministers in relation to the strategic development of smart ticketing in Scotland.
 - (4) The Scottish Ministers may by regulations make provision about the Board, including provision about—
 - (a) the appointment, removal and replacement of members,
 - (b) the remuneration of members (including as to payment of a member's expenses),
 - (c) the process by which the Board makes decisions.
 - (5) Before making regulations under subsection (4), the Scottish Ministers must consult—
 - (a) all local transport authorities,
 - (b) such organisations appearing to Scottish Ministers to be representative of users of local services and connecting rail or ferry services as they think fit,
 - (c) such organisations appearing to Scottish Ministers to be representative of operators of local services and connecting rail or ferry services as they think fit,
 - (d) such other persons as they think fit.]

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Textual Amendments

- F2** S. 27C inserted (10.1.2022) by virtue of [Transport \(Scotland\) Act 2019 \(asp 17\)](#), **ss. 43(2)**, 130(2) (with s. 126); [S.S.I. 2021/428](#), **reg. 2**, sch.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 2 Ch. 3 applied in part by [2019 asp 17 s. 47\(1\)\(2\)](#)
- Pt. 2 Ch. 3 inserted by [2019 asp 17 s. 41\(2\)](#)
- Pt. 2 Ch. 4 heading inserted by [2019 asp 17 sch. para. 3\(2\)](#)
- s. 27B and cross-heading inserted by [2019 asp 17 s. 42\(2\)](#)
- s. 29(3A)-(3C) inserted by [2019 asp 17 s. 44\(2\)\(a\)](#)
- s. 29(7)(8) inserted by [2019 asp 17 s. 44\(2\)\(c\)](#)
- s. 30(3)(ca)-(cc) inserted by [2019 asp 17 s. 44\(3\)\(b\)](#)
- s. 31(1A) inserted by [2019 asp 17 s. 44\(4\)\(a\)](#)
- s. 31(3)(ca) inserted by [2019 asp 17 s. 44\(4\)\(b\)\(iii\)](#)
- s. 31(5)-(7) inserted by [2019 asp 17 s. 44\(4\)\(d\)](#)
- s. 32A inserted by [2019 asp 17 s. 45\(2\)](#)
- s. 32B and cross-heading inserted by [2019 asp 17 s. 46\(2\)](#)
- s. 35A inserted by [2019 asp 17 s. 40\(2\)](#)
- s. 39(1)(ca) inserted by [2019 asp 17 s. 40\(3\)](#)
- s. 79(1)(ca) inserted by [2019 asp 17 s. 48\(2\)\(b\)](#)