



Transport (Scotland) Act 2001

2001 asp 2

PART

BUS SERVICES

Quality contract schemes

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.
- (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—

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- (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.

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—
 - (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—

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- (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.

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;
 - (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.

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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.

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

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- (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.

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,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—

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- (a) tenders submitted to them in accordance with this section; or
- (b) their reasons for entering into particular quality contracts.

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;
 - (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

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- (b) a statement of their reasons for considering that no tender so submitted was acceptable,
as the case may require.

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.
- (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.

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

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- (b) requiring authorities to reissue invitations to tender in accordance with section 18 of this Act.

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.

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.
- (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

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- (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.

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.

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 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,

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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.

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—
 - (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.