



# Transport (Scotland) Act 2001

## 2001 asp 2

### PART 2

#### BUS SERVICES

#### [<sup>F1</sup>CHAPTER 2]

#### [<sup>F1</sup>LOCAL SERVICES FRANCHISES]

#### *Financial and competition provisions*

### 37 Competition test for exercise of bus functions

- (1) The functions to which this section applies are those of—
  - (a) making and varying [<sup>F1</sup>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).
- (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 [<sup>F2</sup>partnership scheme], once notice of a proposal to make or vary it has been given under [<sup>F3</sup>paragraph 6(2) or, as the case may be, 14(1) of schedule A1] 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

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**Changes to legislation:** *Transport (Scotland) Act 2001, Section 37 is up to date with all changes known to be in force on or before 27 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (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.

#### **Textual Amendments**

- F1** Words in s. 37(1)(a) substituted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), [sch. para. 3\(3\)\(a\)](#) (with s. 126); [S.S.I. 2023/250](#), sch.
- F2** Words in s. 37(2)(a) substituted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), [sch. para. 3\(3\)\(b\)\(i\)](#) (with s. 126); [S.S.I. 2023/250](#), sch.
- F3** Words in s. 37(2)(a) substituted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), [sch. para. 3\(3\)\(b\)\(ii\)](#) (with s. 126); [S.S.I. 2023/250](#), 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\(2\)\(b\)](#)