

# TRANSPORT (SCOTLAND) ACT 2005

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 1: Regional Transport**

#### *Chapter 1: Regional Transport Partnerships*

#### **Regional transport functions**

#### *Section 10: Other transport functions of regional Transport Partnerships*

36. [Section 10\(1\)](#) gives the Scottish Ministers powers to confer, by order, transport functions on Transport Partnerships. This provision enables the Scottish Ministers to transfer a transport function from one body, such as a local authority, to a Transport Partnership so that the local authority can no longer directly exercise that function. It also enables the Scottish Ministers to confer a transport function on a Transport Partnership without taking it away from a local authority, or whichever body is currently exercising the function. In this case the transport function would be exercised concurrently by that local authority or body and the Transport Partnership.
37. [Section 10\(2\)](#) requires that the Scottish Ministers must, when conferring functions by order on a Transport Partnership, have regard to the Partnership's transport strategy, if one is in place.
38. [Section 10\(3\)](#) provides that the Scottish Ministers may, in the same way, transfer to or share their own transport functions with Transport Partnerships.
39. [Sections 10\(4\)](#) and [\(5\)](#) provide a list of certain functions that could be conferred on Transport Partnerships by order under [section 10\(1\)](#). The functions listed are not the only ones which may be so conferred.
40. [Sections 10\(6\)](#) and [\(7\)](#) requires a Transport Partnership proposing to request the making of an order conferring functions on them, prior to making that request, to consult with its constituent councils or council and also to make that request in line with guidance produced by the Scottish Ministers.
41. [Section 10\(8\)](#) requires the Scottish Ministers, before making an order under [section 10\(1\)](#), to consult the Transport Partnership to which the order will apply (except where the order is to be made at their request), that Partnership's constituent councils or council and such other persons as they think fit.
42. [Section 10\(9\)](#) enables an order under subsection (1) to modify any enactment. This means, for instance, that a function listed in subsection (4) such as road user charging may form part of an order and to enable that order to make sense it may require that the Transport (Scotland) Act 2001 is modified so as to include a regional Transport Partnership within the definition of local traffic authorities i.e. those bodies that may apply road user charges.