



# Transport Act 1985

## 1985 CHAPTER 67

### PART VI

#### MISCELLANEOUS AND GENERAL

##### *General supplementary provisions*

#### **129 Transfer schemes**

- (1) This section applies to any scheme under section 50(2), 59, 61(9) or 68 of this Act (referred to below in this section as a transfer scheme).
- (2) A transfer scheme may define the property, rights and liabilities to be transferred by the scheme—
  - (a) by specifying the property, rights or liabilities in question; or
  - (b) by referring to all the property, rights and liabilities comprised in the whole or any specified part of the transferor's undertaking;(or partly in one way and partly in the other) and may contain such supplementary, incidental and consequential provisions as may appear to the authority making the scheme to be necessary or expedient (including in particular, but without prejudice to the generality of that, provision with respect to the consideration to be provided by the transferee for any transfer under the scheme).
- (3) Subject to the following provisions of this section, Schedule 4. to the 1968 Act (supplementary provisions as to certain transfers of property, rights and liabilities) shall apply to any transfer under section 50(4), 59(7), 61(11) or 68(7) of this Act; and each of those provisions shall have effect subject to the provisions of that Schedule.
- (4) In Schedule 4 as it applies by virtue of subsection (3) above—
  - (a) any reference to a transfer by or a vesting by virtue of that Act shall be read as a reference to a transfer by or a vesting by virtue of the transfer scheme in question ; and
  - (b) the reference in paragraph 13(5) to the relevant provisions of that Act shall be read as including a reference to the relevant provisions of this Act.

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- (5) The Secretary of State may by order make modifications in Schedule 4 for the purposes of its application to transfers under section 50(4), 59(7), 61(11) or 68(7) of this Act.

### **130 Corporation tax and capital gains tax**

- (1) Section 16(1)(a) of the Finance Act 1970 (which excludes precept income and grants in computing the profits of a Passenger Transport Executive chargeable to corporation tax) shall not apply with respect to any accounting period beginning on or after the passing of this Act.
- (2) In computing for the purposes of the Corporation Tax Acts the profit or loss of a Passenger Transport Executive for any accounting period beginning on or after the passing of this Act, the loss of any earlier accounting period shall be computed as if section 16(1)(a) of the Finance Act 1970 had not been enacted.
- (3) For the purposes of the Capital Gains Tax Act 1979, the transfer under section 59(8) or section 85(4) of this Act of any asset from a Passenger Transport Executive to a Passenger Transport Authority shall be deemed to be for a consideration such that no gain or loss accrues to the Executive ; and Schedule 5. to that Act (assets held on 6th April 1965) shall have effect in relation to any asset so transferred as if the acquisition or provision of it by the Executive had been the acquisition or provision of it by the Authority.
- (4) If, under section 59 of this Act, a company is formed by a Passenger Transport Executive and the shares in or securities of that company are subsequently transferred to a Passenger Transport Authority, section 278 of the Income and Corporation Taxes Act 1970 (deemed disposals of assets for capital gains purposes where member leaves group) shall not have effect as respects any of the assets of the company on its ceasing to be a 75 per cent, subsidiary (within the meaning of the Tax Acts) of the Executive.

### **131 Stamp duty**

- (1) Stamp duty shall not be chargeable under section 47 of the Finance Act 1973 in respect of—
- (a) the formation of a subsidiary of the National Bus Company; or
  - (b) any increase in the capital of such a subsidiary ;
- if the transaction concerned is certified by the Treasury as satisfying the requirements of subsections (3) and (4) below.
- (2) Stamp duty shall not be so chargeable in respect of the formation of any company in pursuance of section 59(1), 61(8) or 67(1) of this Act, if the formation of the company is certified by the Treasury—
- (a) as being effected in pursuance of any of those provisions ; and
  - (b) as satisfying the requirements of subsection (4) below.
- (3) A transaction satisfies the requirements of this subsection if it is effected solely for the purpose of facilitating the eventual implementation of any disposal required in pursuance of the National Bus Company's disposal programme under Part III of this Act.
- (4) A transaction satisfies the requirements of this subsection if it is entered into solely in connection with a relevant transfer, takes place on or before the transfer date and does not give rise to an excess of capital.

In this subsection, " relevant transfer " means—

- (a) in a case within subsection (1) above, a transfer to be effected under section 50 of this Act;
  - (b) in a case within subsection (2) above, a transfer to be effected in pursuance of a scheme made under section 59, 61(9) or 68 of this Act.
- (5) For the purposes of subsection (4) above a transaction gives rise to an excess of capital if—
- (a) in a case falling within subsection (1)(a) or (2) above the total issued capital of the subsidiary or (as the case may be) of the company in question exceeds, on the transfer date, the total value of the assets less liabilities transferred; or
  - (b) in a case falling within subsection (1)(b) above the aggregate amount of the increase of issued capital of the subsidiary exceeds, on that date, that total value;
- and in this subsection " issued capital" means issued share capital or loan capital.
- (6) Stamp duty shall not be chargeable—
- (a) on any scheme made under section 50(2) of this- Act or on any scheme or order made under any provision of Part IV of this Act; or
  - (b) on any instrument which is certified to the Commissioners of Inland Revenue by the transferring authority or (as the case may be) by both or all the transferring authorities as having been made or executed in pursuance of Schedule 4 to the 1968 Act as it applies by virtue of any provision of this Act in relation to a transfer in pursuance of any such scheme or order; or
  - (c) on any instrument which is so certified as having been made or executed for the purpose of giving effect to any transfer authorised by section 50(1) or (as the case may be) required under section 59(8) of this Act.
- (7) No such instrument as is mentioned in subsection (6)(b) or (c) above shall be treated as duly stamped unless it is stamped with the duty to which it would but for subsection (6) above be liable or it has, in accordance with the provisions of section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped.

### **132 Operation of vehicles, etc., by partnerships**

Section 58(1) of the 1981 Act (power to modify the provisions of that Act in their application to the operation of vehicles and the provision of services by persons in partnership) shall apply in relation to the provisions of this Act.

### **133 Functions of Passenger Transport Authorities and Executives: supplementary**

- (1) In Part II of the 1968 Act, the references to that Part of that Act or (as the case may be) to that Act mentioned in subsection (2) below shall include references to this Act
- (2) Those references are—
  - (a) the references to that Part of that Act in section 12(2), (3)(d) and (g) (borrowing powers of Executive) and in section 15(5) (expenditure by Authority in performing their functions to be defrayed by Executive); and

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- (b) the reference to that Act in section 12(5)(b) (which refers to rights of priority in respect of any liability assumed by or transferred to an Executive in pursuance of that Act).

### **134 Regulations, rules and orders**

- (1) Section 60 of the 1981 Act (general power to make regulations for purposes of that Act) shall have effect as if Parts I and II of this Act were contained in that Act.
- (2) In that section—
  - (a) in subsection (1) (which, in effect, provides that all regulations authorised under that Act are to be made under that section) the words from " for any purpose " to " generally " and the words from " and regulations under this section " to the end of the subsection shall be omitted;
  - (b) the following subsection shall be inserted after subsection (1)—
    - “(1A) Regulations made under any provision of this Act may make different provision for different cases to which the regulations apply, and may in particular—
      - (a) make different provision as respects different areas; and
      - (b) make different provision as respects different classes or descriptions of vehicles or as respects the same class or description of vehicles in different circumstances.”;
    - (c) in subsection (2) (which defines " regulations " as meaning regulations under that section), for the words " under this section " there shall be substituted the words " by the Secretary of State "; and
    - (d) subsection (3) (which excepts certain provisions of that Act from being included in references to that Act in that section and is unnecessary in view of the amendments made above in this section) shall be omitted.
- (3) The power to make regulations under that section, as it applies by virtue of this section, shall extend to any of the following matters—
  - (a) applications for, and the issue of, permits under section 19 or 22 of this Act; and
  - (b) the issue of copies of such permits in the case of permits lost or destroyed.
- (4) The Secretary of State may make regulations under this section for the purpose of carrying the provisions of this Act (apart from Parts I and II) into effect.
- (5) Regulations or rules made under any provision of this Act (other than one contained in Part I or II), and any order made by the Secretary of State under any provision of this Act (including one so contained), may make different provision for different cases to which those regulations or rules or (as the case may be) to which that order applies, and may in particular make different provision as respects different areas.

### **135 Procedure for making regulations, rules and orders**

- (1) Section 61 of the 1981 Act (procedure for making regulations under that Act) shall have effect as if Parts I and II of this Act were contained in that Act; and in subsection (2) of that section (duty to consult before making regulations under section 59 or 60 of that Act) the words " section 59 or 60 of " shall be omitted.
- (2) Any power of the Secretary of State—

- (a) to make regulations or rules under any provision of this Act (other than one contained in Part I or II); or
  - (b) to make an order under any provision of this Act (including one so contained);
- shall be exercisable by statutory instrument.
- (3) Subject to subsection (4) below, any statutory instrument containing any such regulations, rules or order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subsection (3) above does not apply to a statutory instrument containing an order under section 46, 52(5), 53(1), 85 or 140(2) of this Act.

### **136 Directions**

- (1) It shall be the duty of any person to whom the Secretary of State gives directions under this Act to give effect to those directions.
- (2) Any direction given by the Secretary of State under any provision of this Act (including a direction specifying a period or date for any purposes of Part IV of this Act) may be varied or revoked by a subsequent direction given under that provision.
- (3) Any direction given by the Secretary of State under this Act shall be in writing.

### **137 General interpretation**

- (1) In this Act, unless the context otherwise requires—
- " the 1962 Act " means the Transport Act 1962 ;
  - " the 1972 Act " means the Local Government Act 1972 ;
  - " the 1968 Act " means the Transport Act 1968 ;
  - "the 1981 Act" means the Public Passenger Vehicles Act 1981;
  - "body" means a body of persons, whether corporate or unincorporate;
  - " bus service condition " has the meaning given by section 119(4) of this Act;
  - " bus substitution service " has the meaning given by section 119(1) of this Act ;
  - " employees share scheme " means a scheme for encouraging or facilitating the holding of shares or debentures in a company by or for the benefit of—
    - (a) the bona fide employees or former employees of the company or of a subsidiary of the company; or
    - (b) the wives, husbands, widows, widowers or children or step-children under the age of eighteen of such employees or former employees ;
  - " equity share capital " has the meaning given in the Companies Act 1985;
  - " excursion or tour " means a service for the carriage of passengers by road at separate fares on which the passengers travel together on a journey, with or without breaks, from one or more places to one or more other places and back ;
  - " functions " includes powers, duties and obligations;
  - " interest" means, in relation to a company's share capital of any description, a beneficial interest (whether held directly or through nominees or subsidiaries) in that share capital;
  - " liability " includes an obligation ;
  - " local service " has the meaning given by section 2 of this Act;

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" London " means the administrative area of Greater London as for the time being constituted ;

" London local service " has the meaning given by section 34(1) of this Act;

" pension", in relation to a person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes—

- (a) a gratuity so payable ;
- (b) a return of contributions to a pension fund, with or without interest on or any other addition to those contributions; and
- (c) any sums payable on or in respect of the death of that person;

" pension rights " includes, in relation to any person, all forms of right to or eligibility for the present or future payment of a pension, and any expectation of the accruer of a pension under any customary practice, and includes a right of allocation in respect of the present or future payment of a pension ;

" prescribed " means prescribed by regulations ;

" public passenger transport services" has the meaning given by section 63(10)(a) of this Act;

"the Railways Board " means the British Railways Board established under section 1 of the 1962 Act;

" regulations " means regulations made by the Secretary of State;

" securities ", in relation to a body corporate, means any shares, stock, debentures, debenture stock, and any other security of a similar nature, of the body corporate;

" social services functions " means functions which are social services functions for the purposes of the Local Authority Social Services Act 1970 ;

" social work functions " means functions which are social work functions for the purposes of the Social Work (Scotland) Act 1968;

" the standard scale " has the meaning given by section 75 of the Criminal Justice Act 1982 ;

" stopping place " means, in relation to any service or part of a service, a point at which passengers are (or, in the case of a proposed service, are proposed to be) taken up or set down in the course of that service or part;

" subsidiary " means, in relation to any body corporate, a body corporate which is a subsidiary of the first-mentioned body corporate as defined by section 736 of the Companies Act 1985 (taking references in that section to a company as being references to a body corporate);

" traffic area " means a traffic area constituted for the purposes of the 1981 Act, and section 80 of that Act shall apply to references in this Act to the Metropolitan Traffic Area;

" trunk road " has the meaning given by section 329 of the Highways Act 1980 or, as respects Scotland, section 151 of the Roads (Scotland) Act 1984 ;

" wholly-owned subsidiary" means a subsidiary all the securities of which are owned by a body corporate of which it is a subsidiary, or by one or more other wholly-owned subsidiaries of that body, or partly by that body and partly by any wholly-owned subsidiary of that body;

and the expressions listed in subsection (2) below have the same meaning as in the 1981 Act.

(2) Those expressions are—

" company ";

" contravention " ;  
" fares " ;  
" modification " ;  
" operator " (in references to the operator of a vehicle);  
" operating centre " ;  
" PSV operator's licence " ;  
" public service vehicle " ;  
" road " ;  
" statutory provision " ; and  
" traffic commissioner " .

- (3) References in this Act to a vehicle's being used for carrying passengers for hire or reward shall be read in accordance with section 1(5) of the 1981 Act.
- (4) References in this Act to agreements providing for service subsidies shall be read in accordance with section 63(10)(b) of this Act.
- (5) References in this Act to Passenger Transport Authorities and Executives and to passenger transport areas are references respectively to the Passenger Transport Authorities and Executives, and to passenger transport areas, for the purposes of Part II of the 1968 Act
- (6) References in this Act, in relation to a bus substitution service, to the withdrawal of service shall be read in accordance with section 120(1) of this Act (and references to a withdrawal of service or to withdrawals of service have a corresponding meaning).
- (7) For the purposes of this Act the operator of a passenger transport service of any description is the person, or each of the persons, providing the service; and for those purposes the operator of a vehicle being used on a road for the carriage of passengers for hire or reward at separate fares shall be taken to be providing the service provided by means of the vehicle unless he proves that the service is or forms part of a service provided not by himself but by one or more other persons.
- (8) For the purposes of this Act an interest in a company's equity share capital is a controlling interest if it subsists in more than half in nominal value of that capital.

### **138 Expenses and receipts**

The following are authorised by this section—

- (a) the payment out of money provided by Parliament of any expenditure incurred by the Secretary of State under section 54(4) of or paragraph 7 of Schedule 4 to this Act or in making grants under section 108, 109 or 124 of this Act;
- (b) any increase in payments out of money so provided arising from any increase in administrative expenses of the Secretary of State or the expenses of local authorities attributable to the provisions of this Act; and
- (c) any increase attributable to this Act in the sums payable into the Consolidated Fund by virtue of section 52(3) or 75 of the 1981 Act (fees received by traffic commissioners and certain fines to be paid into the Consolidated Fund).

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### **139 Transitional provisions, savings, amendments, repeals and revocation**

- (1) This Act shall have effect subject to the transitional provisions and savings set out in Schedule 6 to this Act.
- (2) The enactments mentioned in Schedule 7 to this Act shall have effect subject to the amendments specified in that Schedule (which are minor amendments and amendments consequential on the provisions of this Act).
- (3) The enactments mentioned in Schedule 8 to this Act (which include certain provisions which are already spent) are repealed to the extent specified in the third column of that Schedule.
- (4) Without prejudice to section 13 of this Act, the Secretary of State may, for the purpose of taking account of any of the provisions of Part I of this Act, by order modify or repeal any provision made by any local Act passed before the commencement of this subsection.
- (5) Paragraph 4(2) of the Schedule to the Restrictive Trade Practices (Services) Order 1976 is revoked.

### **140 Short title, commencement and extent**

- (1) This Act may be cited as the Transport Act 1985.
- (2) This Act (apart from this section, section 58 of this Act and paragraph 12 of Schedule 6 to this Act) shall come into force on such day or days as the Secretary of State may by order appoint, and different days may be appointed for different purposes (including different purposes of the same provision).
- (3) An order under subsection (2) above may contain such transitional provisions and savings (whether or not involving the modification of any statutory provision) as appear to the Secretary of State necessary or expedient in connection with the provisions brought (wholly or partly) into force by the order.
- (4) The following provisions of this Act do not extend to Scotland, that is to say—  
sections 10 and 11;  
Part II; and  
section 102.
- (5) This Act, with the exceptions mentioned in subsection (6) below, does not extend to Northern Ireland.
- (6) Those exceptions are—  
section 114(1)(a) and (2); and  
section 115.