



# Local Transport Act 2008

## 2008 CHAPTER 26

An Act to make further provision in relation to local transport authorities, the provision and regulation of road transport services and the subsidising of passenger transport services; to amend sections 74, 75 and 79 of the Transport Act 1985; to make provision for or in relation to committees which represent the interests of users of public transport; to rename Passenger Transport Authorities as Integrated Transport Authorities and to make further provision in relation to them; to make further provision in relation to charging for the use of roads; to make provision about the meaning of “street works” and “street works licence” in Part 3 of the New Roads and Street Works Act 1991; to amend Part 6 of the Traffic Management Act 2004 and section 90F of the Road Traffic Offenders Act 1988; to make provision in relation to the acquisition, disclosure and use of information relating to vehicles registered outside the United Kingdom; and for connected purposes. [26th November 2008]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART 1

#### THE TRAFFIC COMMISSIONERS

#### 1 Traffic areas

(1) Section 3 of the PPVA 1981 (traffic areas) is amended as follows.

(2) After subsection (2) (orders varying traffic areas) insert—

“(2A) The power to make an order under subsection (2) above includes power to make—

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(a) such incidental, consequential, supplemental or transitional provision, and

(b) such savings,

as the Secretary of State may consider necessary or expedient for the purpose of, or in consequence of, or for giving full effect to, any order under that subsection for varying the number or limits of traffic areas in England and Wales.

(2B) The power conferred by subsection (2A) above includes power to amend or modify any provision of this Act or any other enactment (whenever passed or made) for the purpose of making any such provision or savings.

(2C) The powers conferred by subsections (2A) and (2B) above are without prejudice to what may be done under subsection (3) below.”.

#### Commencement Information

II S. 1 partly in force; s. 1 in force at Royal Assent for specified purposes, see s. 134(1)(c)

VALID FROM 03/07/2013

## 2 Traffic commissioners

(1) Section 4 of the PPVA 1981 (traffic commissioners) is amended as follows.

(2) For subsections (1) and (2) (commissioner to be appointed for each traffic area etc) substitute—

“(1) For the purposes of this Act there shall be—

- (a) such number of commissioners for England and Wales as the Secretary of State may consider appropriate; and
- (b) a single commissioner for the Scottish Traffic Area (the “Scottish traffic commissioner”).

(2) The commissioners shall be appointed by the Secretary of State and shall be known as traffic commissioners.”.

(3) In subsection (3) (function of issuing licences) for “The traffic commissioner for each traffic area” substitute “ A traffic commissioner ”.

(4) After subsection (3) insert—

“(3A) A traffic commissioner for England and Wales—

- (a) may exercise the functions of a traffic commissioner in any traffic area in England and Wales; and
- (b) may exercise in relation to the Scottish Traffic Area any functions of a traffic commissioner that relate to reserved matters within the meaning of the Scotland Act 1998.

(3B) The Scottish traffic commissioner—

- (a) is to exercise the functions of a traffic commissioner in relation to the Scottish Traffic Area; and

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- (b) may exercise in relation to any traffic area in England and Wales any functions of a traffic commissioner that relate to reserved matters within the meaning of the Scotland Act 1998.”.
- (5) In subsection (4) (terms of office) in the opening words, for “the traffic commissioner for a traffic area” substitute “ a traffic commissioner ”.
- (6) In subsection (5) (declaration of certain financial interests before appointment) for “the traffic commissioner for a traffic area” substitute “ a traffic commissioner ”.
- (7) In section 82(1) of the PPVA 1981 (general definitions) insert at the appropriate place—
  - ““the Scottish traffic commissioner” is to be read in accordance with section 4(1)(b) (the traffic commissioner for the Scottish Traffic Area);”.

VALID FROM 04/03/2009

### **3 The senior traffic commissioner**

- (1) After section 4 of the PPVA 1981 (traffic commissioners) insert—

#### **“4A Appointment of senior traffic commissioner**

- (1) One of the traffic commissioners shall be appointed by the Secretary of State to be the senior traffic commissioner.
- (2) The senior traffic commissioner shall have such functions as may be conferred or imposed by or under any of the following enactments—
  - (a) section 4B below (deployment of traffic commissioners),
  - (b) section 4C below (guidance and general directions),or any other provision of this Act or any other enactment.
- (3) The senior traffic commissioner—
  - (a) shall hold office for such period as the Secretary of State specifies when making the appointment; but
  - (b) ceases to hold that office on ceasing to hold office as a traffic commissioner.
- (4) A traffic commissioner who has been the senior traffic commissioner is eligible for re-appointment as the senior traffic commissioner.
- (5) In the case of illness, incapacity or absence of the senior traffic commissioner, the Secretary of State may appoint another traffic commissioner to act as deputy for the senior traffic commissioner.
- (6) Where the office of senior traffic commissioner becomes vacant, the Secretary of State may appoint a person (whether or not over the age of 65) to act as senior traffic commissioner pending the appointment of a new senior traffic commissioner.
- (7) Any person appointed under subsection (6) above shall—

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- (a) hold office for such period as the Secretary of State specifies when making the appointment; and
- (b) during that period be treated for all purposes as the senior traffic commissioner.

#### **4B Power of senior traffic commissioner to deploy other commissioners**

- (1) In this section—
  - (a) subsections (2) to (4) confer powers on the senior traffic commissioner in relation to traffic commissioners and deputy traffic commissioners for England and Wales; and
  - (b) subsections (5) to (7) confer powers on the senior traffic commissioner in relation to the Scottish traffic commissioner and any deputy traffic commissioners for the Scottish traffic area.
- (2) The senior traffic commissioner may require any traffic commissioner for England and Wales to carry out such of the functions of traffic commissioner for England and Wales as the senior traffic commissioner may determine—
  - (a) in relation to such matters relating to England and Wales, or
  - (b) as respects Scotland, in relation to such reserved matters,
 as the senior traffic commissioner may determine.
- (3) The senior traffic commissioner may require any traffic commissioner for England and Wales to carry out such of those functions as the senior traffic commissioner may determine at such places—
  - (a) in England and Wales, or
  - (b) in the case of functions which relate to reserved matters and are exercisable in relation to Scotland, in Scotland,
 as the senior traffic commissioner may determine.
- (4) Subsections (2) and (3) above also apply in relation to a deputy traffic commissioner for England and Wales as they apply in relation to a traffic commissioner for England and Wales, construing the references to functions accordingly.
- (5) The senior traffic commissioner may require the Scottish traffic commissioner to carry out as respects England and Wales such of the functions exercisable by the Scottish traffic commissioner in relation to reserved matters by virtue of section 4(3B)(b) of this Act as the senior traffic commissioner may determine.
- (6) The senior traffic commissioner may require the Scottish traffic commissioner to carry out such of those functions as the senior traffic commissioner may determine at such places in England and Wales as the senior traffic commissioner may determine.
- (7) Subsections (5) and (6) above also apply in relation to a deputy traffic commissioner for the Scottish Traffic Area as they apply in relation to the Scottish traffic commissioner, construing the references to functions accordingly.
- (8) In this section—

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“deputy traffic commissioner for the Scottish Traffic Area” means any person appointed under paragraph 3 or 4 of Schedule 2 to this Act to act as deputy in the case of the Scottish traffic commissioner;

“reserved matters” means reserved matters within the meaning of the Scotland Act 1998.

#### **4C Power of senior traffic commissioner to give guidance and directions**

(1) The senior traffic commissioner may give to the traffic commissioners—

- (a) guidance, or
- (b) general directions,

as to the exercise of their functions under any enactment.

This subsection is subject, in relation to Scotland, to subsection (5) below.

(2) The guidance that may be given under subsection (1)(a) above includes guidance as to—

- (a) the meaning and operation of any enactment or instrument relevant to the functions of traffic commissioners;
- (b) the circumstances in which, and the manner in which, a traffic commissioner should exercise any power to impose any sanction or penalty;
- (c) matters which a traffic commissioner should or should not take into account when exercising any particular function.

(3) The directions that may be given under subsection (1)(b) above include directions as to—

- (a) the circumstances in which, and the manner in which, officers or servants of a traffic commissioner may exercise any function for or on behalf of the traffic commissioner, and any conditions which such officers or servants must meet before they may do so;
- (b) the information which a traffic commissioner must ask to be supplied in connection with the exercise of any particular function, and the steps which must be taken to verify the accuracy of any information so supplied;
- (c) the procedure to be adopted in conducting inquiries under section 54 of this Act, section 35 of the Goods Vehicles (Licensing of Operators) Act 1995 or any other enactment;
- (d) the manner in which a traffic commissioner must or may publish his decisions;
- (e) circumstances in which a traffic commissioner must consult some, or all, of the other traffic commissioners before exercising any particular function.

(4) The senior traffic commissioner must consult each of the following persons before giving any guidance or directions under subsection (1) above—

- (a) the Secretary of State;
- (b) the Scottish Ministers, if the senior traffic commissioner considers it appropriate;

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- (c) the Welsh Ministers, if the senior traffic commissioner considers it appropriate;
- (d) such of the other traffic commissioners as the senior traffic commissioner considers appropriate;
- (e) such organisations representative of the interests of local government, of London government, of Integrated Transport Authorities and of Passenger Transport Executives as the senior traffic commissioner considers appropriate;
- (f) such organisations representative of the interests of users of public passenger transport services as the senior traffic commissioner considers appropriate;
- (g) such organisations representative of passenger transport operators, and of road haulage operators, as the senior traffic commissioner considers appropriate;

and such other persons as the senior traffic commissioner considers appropriate.

- (5) The only guidance or directions under this section which the senior traffic commissioner may give to the Scottish traffic commissioner are guidance or directions as to the exercise of functions that relate to reserved matters within the meaning of the Scotland Act 1998.

#### **4D Guidance to senior traffic commissioner by Secretary of State**

- (1) The Secretary of State may give the senior traffic commissioner guidance as to the exercise of any of the senior traffic commissioner's functions.
- (2) The senior traffic commissioner must have regard to any guidance given under subsection (1) above.”.
- (2) In each of the following provisions (which provide for traffic commissioners to act under general directions of the Secretary of State)—
  - (a) section 4(4)(a) of the PPVA 1981,
  - (b) section 1(2) of the Goods Vehicles (Licensing of Operators) Act 1995 (c. 23),
 for “the general directions of the Secretary of State” substitute “the general directions of, and shall have regard to any guidance given by, the senior traffic commissioner”.
- (3) In Schedule 2 to the PPVA 1981 (traffic commissioners) in paragraph 8, at the beginning insert “ (1) ” and at the end insert—
  - “(2) There shall be paid to the senior traffic commissioner such additional remuneration in respect of the responsibilities of that office as may be so determined.”.
- (4) The person who, on the date on which section 4A(1) of the PPVA 1981 comes into force, is the person designated by the Secretary of State as senior traffic commissioner—
  - (a) is to become, on that date, the first holder of the office of senior traffic commissioner, and
  - (b) is to remain in that office until the expiry of the term for which that person was so designated (but subject to section 4A(3)(b) of, and Schedule 2 to, the PPVA 1981).

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VALID FROM 06/04/2013

#### **4 Amendments of Schedule 2 to the PPVA 1981**

- (1) Schedule 2 to the PPVA 1981 (traffic commissioners) is amended as follows.
- (2) In paragraph 1 (removal of traffic commissioner for inability or misbehaviour) for “for inability or misbehaviour” substitute “on the grounds that the traffic commissioner—
  - (a) has misbehaved; or
  - (b) is unable, unfit or unwilling to perform the functions of traffic commissioner to a standard which the Secretary of State considers satisfactory”.
- (3) The amendment made by subsection (2) has effect in relation to traffic commissioners appointed before, as well as traffic commissioners appointed on or after, the day on which that amendment comes into force.
- (4) After paragraph 2 insert—

##### **2A “Deputy traffic commissioners for England and Wales**

- (1) The Secretary of State may appoint such number of persons to be deputy traffic commissioners for England and Wales as the Secretary of State thinks fit.
- (2) A deputy traffic commissioner for England and Wales—
  - (a) may exercise any functions of a traffic commissioner in any traffic area in England and Wales; and
  - (b) may exercise in relation to the Scottish Traffic Area any functions of a traffic commissioner that relate to reserved matters.
- (3) Appointment as a deputy traffic commissioner for England and Wales shall be upon such terms and conditions, including conditions as to the time to be devoted to the duties of the office, as the Secretary of State may determine.
- (4) A deputy traffic commissioner for England and Wales shall carry out such of the functions of that office as the senior traffic commissioner may determine under section 4B of this Act—
  - (a) in relation to such matters relating to England and Wales, or
  - (b) as respects Scotland, in relation to such reserved matters,as the senior traffic commissioner may so determine.
- (5) A deputy traffic commissioner for England and Wales shall carry out such of those functions as the senior traffic commissioner may determine under section 4B of this Act at such places—
  - (a) in England and Wales, or
  - (b) in the case of functions which relate to reserved matters and are exercisable in relation to Scotland, in Scotland,as the senior traffic commissioner may so determine.



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(6) In this paragraph “reserved matters” means reserved matters within the meaning of the Scotland Act 1998.”.

(5) In consequence of the amendments made by this section, at the end of the italic heading preceding paragraph 3 there is inserted “ in Scotland ”.

(6) After that heading, insert—

“2B Paragraphs 3 to 5 below have effect in relation to the Scottish Traffic Area only.”.

(7) After paragraph 5 insert—

**5A “Appointment of acting traffic commissioner during vacancy**

(1) Where the office of any traffic commissioner for England and Wales becomes vacant, the Secretary of State may appoint a person (whether or not over the age of 65) to act as a traffic commissioner for England and Wales pending the appointment of a new traffic commissioner under section 4 of this Act.

(2) Any person appointed under sub-paragraph (1) above shall—

- (a) hold office for such period as the Secretary of State specifies when making the appointment; and
- (b) during that period be treated for all purposes (except those of paragraph 9 below) as a traffic commissioner for England and Wales.”.

(8) In consequence of the amendment made by subsection (7), in paragraph 6(1) (appointment of acting traffic commissioner during vacancy) after “for any traffic area” insert “ in Scotland ”.

(9) In paragraph 9 (principal civil service pension scheme) for “traffic commissioner for each of the traffic areas” substitute “ traffic commissioner for England and Wales or for the Scottish Traffic Area ”.

VALID FROM 03/07/2013

**5 Transitional provision for existing traffic commissioners etc**

(1) Any existing traffic commissioner for a traffic area in England and Wales—

- (a) on the relevant commencement, becomes instead a traffic commissioner for England and Wales with all the powers and duties of such a commissioner,
- (b) holds that office on the terms and conditions that applied to the commissioner immediately before the relevant commencement,
- (c) is subject to paragraph 1 of Schedule 2 to the PPVA 1981 (grounds for dismissal), as amended by section 4, as from the coming into force of that amendment.



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- (2) Any appointment of a person as a deputy traffic commissioner for a traffic area in England and Wales before the relevant commencement—
- (a) continues in force notwithstanding the substitution of subsections (1) and (2) of section 4 of the PPVA 1981 effected by section 2,
  - (b) has effect as from the relevant commencement as an appointment under paragraph 2A of Schedule 2 to that Act as a deputy traffic commissioner for England and Wales with all the powers and duties of such a commissioner,
  - (c) as from the relevant commencement is held on the terms and conditions that applied to the deputy traffic commissioner immediately before the relevant commencement.
- (3) Any appointment of a person as an acting traffic commissioner for a traffic area in England and Wales before the relevant commencement—
- (a) continues in force notwithstanding the substitution of subsections (1) and (2) of section 4 of the PPVA 1981 effected by section 2,
  - (b) has effect as from the relevant commencement as an appointment under paragraph 5A of Schedule 2 to that Act to act as a traffic commissioner for England and Wales with all the powers and duties of such a commissioner,
  - (c) as from the relevant commencement is held on the terms and conditions that applied to the acting traffic commissioner immediately before the relevant commencement.
- (4) Any existing traffic commissioner for the Scottish Traffic Area—
- (a) on the relevant commencement, becomes instead the Scottish traffic commissioner with all the powers and duties of that commissioner,
  - (b) holds that office on the terms and conditions that applied to the traffic commissioner immediately before the relevant commencement, and
  - (c) is subject to paragraph 1 of Schedule 2 to the PPVA 1981 (grounds for dismissal), as amended by section 4, as from the coming into force of that amendment.
- (5) In this section—
- “acting traffic commissioner” means a person appointed under paragraph 6 of Schedule 2 to the PPVA 1981 to act as a traffic commissioner for a traffic area;
- “deputy traffic commissioner” means a person appointed under paragraph 3 or 4 of Schedule 2 to the PPVA 1981 to act as deputy to a traffic commissioner for a traffic area;
- “existing traffic commissioner” means a person—
- (a) who is a traffic commissioner for a traffic area immediately before the relevant commencement, and
  - (b) who would, apart from the amendments made by this Act, have continued as such after the relevant commencement;
- “the relevant commencement” means—
- (a) in relation to an existing traffic commissioner, the coming into force of the substitution of subsections (1) and (2) of section 4 of the PPVA 1981 effected by section 2;
  - (b) in relation to a deputy traffic commissioner for a traffic area in England and Wales, the coming into force of paragraph 2A of Schedule 2 to the PPVA 1981 (which is inserted by section 4);

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- (c) in relation to an acting traffic commissioner for a traffic area in England and Wales, the coming into force of paragraph 5A of Schedule 2 to the PPVA 1981 (which is inserted by section 4).

## 6 Consequential amendments

- (1) The Secretary of State may by order make such provision as the Secretary of State may consider necessary or expedient for the purposes of, or in consequence of, or for giving full effect to, any amendment made by sections 2 to 5.
- (2) The power conferred by subsection (1) includes—
  - (a) power to make different provision for different cases or for different areas, and
  - (b) power to make incidental, consequential, supplemental, or transitional provision, and savings.
- (3) The powers conferred by subsections (1) and (2) include power to amend or modify any provision of this Act or any other enactment (whenever passed or made) for the purpose of making any such provision, or any such saving, as is mentioned in either of those subsections.
- (4) The only provision that may be made by an order under this section in relation to Scotland is provision relating to reserved matters within the meaning of the Scotland Act 1998 (c. 46).
- (5) The power to make an order under this section is exercisable by statutory instrument.
- (6) A statutory instrument containing an order under this section may not be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

### Commencement Information

**I2** S. 6 partly in force; s. 6 in force at Royal Assent for specified purposes, see s. 134(1)(c)

VALID FROM 09/02/2009

## PART 2

### TRANSPORT POLICIES

## 7 Local transport policies

- (1) The TA 2000 is amended as follows.
- (2) In section 108 (local transport plans) after subsection (4) insert—
 

“(5) In this Part “local transport policies” means policies developed under subsection (1)(a).”.
- (3) In section 162(1) (interpretation of Part 2) insert the following definition at the appropriate place—

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““local transport policies” has the meaning given in section 108(5),”.

(4) In section 198(1) (interpretation of Part 3) insert the following definition at the appropriate place—

““local transport policies” has the meaning given in section 108(5),”.

(5) Schedule 1 to this Act (which substitutes references to local transport policies for certain references to local transport plans or bus strategies and makes other related amendments) has effect.

## **8 Nature of duty to develop transport policies**

(1) Section 108 of the TA 2000 (local transport plans) is amended as follows.

(2) In subsection (1)(a), omit “facilities and services”.

(3) In subsection (2)—

- (a) for the words from the beginning to “are” substitute “ In subsection (1), “transport” means ”,
- (b) for “those”, in both places, substitute “ the transport ”,
- (c) for “include” substitute “ includes ”.

(4) After subsection (2) insert—

“(2ZA) Each local transport authority whose area is in England must—

- (a) in developing policies in accordance with subsection (1)(a), and
  - (b) in carrying out their functions in accordance with subsection (1)(b),
- comply with the duties set out in subsection (2ZB).

(2ZB) The duties are—

- (a) to take into account any policies announced by Her Majesty's government, and
- (b) to have regard to any guidance issued for the purposes of this paragraph by the Secretary of State,

with respect to mitigation of, or adaptation to, climate change or otherwise with respect to the protection or improvement of the environment.

(2ZC) The power to issue guidance under subsection (2ZB)(b) does not affect the generality of the power to issue guidance under section 112(1).”.

## **9 Local transport plans**

(1) For subsection (3) of section 108 of the TA 2000 (duty to prepare local transport plan) substitute—

“(3) Each local transport authority whose area is in England must prepare a document to be known as (or two or more documents to be known together as) the local transport plan containing—

- (a) their policies under subsection (1)(a);
- (b) their proposals for the implementation of those policies.

(3A) Each local transport authority whose area is in Wales must prepare a document to be known as the local transport plan containing—

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- (a) their policies under subsection (1)(a), and
- (b) their policies under subsection (2A).

(3B) A local transport authority whose area is in England must, in complying with the duty under subsection (1)(b), have regard to the proposals contained in their plan.”.

(2) Section 109 of that Act (further provision about plans: England) is amended as follows.

(3) For subsection (2) substitute—

“(2) The authority may replace their plan as they think fit.”.

(4) After subsection (2) insert—

“(2A) In preparing their local transport plan, and in keeping it under review, an authority other than an Integrated Transport Authority must consult—

- (a) the Secretary of State in relation to functions which the Secretary of State has—

- (i) as highway authority by virtue of section 1 of the Highways Act 1980, or

- (ii) as traffic authority by virtue of section 121A of the Road Traffic Regulation Act 1984,

- (b) if the local transport authority is a county council, the councils of the districts in the county (if any).

(2B) In preparing their local transport plan, and in keeping it under review, an Integrated Transport Authority must consult—

- (a) each local traffic authority (within the meaning of the Road Traffic Regulation Act 1984) for any area within the integrated transport area of the Integrated Transport Authority,

- (b) the Secretary of State in relation to functions which the Secretary of State has—

- (i) as highway authority by virtue of section 1 of the Highways Act 1980, or

- (ii) as traffic authority by virtue of section 121A of the Road Traffic Regulation Act 1984,

- (c) each county council and each district council for any area within the integrated transport area of the Integrated Transport Authority.

(2C) In preparing their local transport plan, and in keeping it under review, the authority must consult such of the following persons as they consider appropriate—

- (a) operators of any network or station, or of any railway services, in their area;

- (b) operators or providers of other transport services in their area, or organisations appearing to the authority to be representative of the interests of such persons;

- (c) organisations appearing to the authority to be representative of the interests of users of transport services and facilities in their area;

and must also consult any other persons whom they consider appropriate.

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(2D) Any expression which is used in subsection (2C)(a) or (b) and in Part 1 of the Railways Act 1993 has the meaning given in that Part, taking “railway” to have its wider meaning (see section 81 of that Act).”.

(5) Omit subsections (5) and (6).

## **10 Bus strategies no longer required**

(1) The TA 2000 is amended as follows.

(2) Omit sections 110 and 111 (bus strategies).

(3) Section 112 (plans and strategies: supplementary) is amended as follows.

(4) In subsection (1)—

(a) for “sections 108 to 111” substitute “ sections 108 to 109B ”;

(b) omit “(and bus strategies)” and (in each place) “(and strategies)”.

(5) In subsection (2) omit “and their bus strategy”.

(6) In each of sections 113A(1) and 113B(1) (plans and strategies: Wales) for “sections 108 to 111” substitute “ sections 108 to 109B ”.

(7) In section 162(1) (interpretation) for the definition of “bus services” substitute—

““bus services” means services using public service vehicles.”.

(8) In section 9A of the TA 1968 (general functions of Passenger Transport Areas and Executives), in subsection (7), omit the words from “and to the bus strategy” to the end.

(9) The TA 1985 is amended as follows.

(10) In section 63 (functions of local councils with respect to passenger transport)—

(a) in subsection (8), omit “and to the appropriate bus strategy”;

(b) omit subsection (8A).

(11) In section 89 (obligation to invite tenders for subsidised services) omit subsections (7)(b) and (8).

## **11 Duty to have regard to transport needs of disabled persons**

(1) Section 112 of the TA 2000 (plans and strategies: supplementary) is amended as follows.

(2) In subsection (2) (duty to have regard to needs of certain persons in developing transport policies)—

(a) after “developing” insert “ and implementing ”;

(b) after “needs of” insert “ disabled persons (within the meaning of the Disability Discrimination Act 1995) and of”.

## **12 Development of policies by ITA no longer joint duty with district councils**

(1) Section 113 of the TA 2000 (role of metropolitan district councils) is amended as follows.

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(2) Omit subsection (1).

(3) For subsection (2) substitute—

“(2) The duties imposed on an Integrated Transport Authority for an integrated transport area by—

- (a) section 108(1)(b), (2ZA) and (3B), and
- (b) section 109(4),

are also duties of each of the councils for the metropolitan districts comprised in the area, subject to the modifications set out in subsection (2A).

(2A) The modifications are—

- (a) in section 108(1)(b), the reference to “those policies” is a reference to the policies developed by the Integrated Transport Authority for that area;
- (b) in section 108(3B), the reference to “their plan” is a reference to the local transport plan of the Integrated Transport Authority for that area;
- (c) in section 109(4), the reference to “their local transport plan” is a reference to the local transport plan of the Integrated Transport Authority for that area.”.

(4) Omit subsection (3).

(5) In section 162 of that Act (interpretation for the purposes of Part 2) omit subsection (6).

(6) In section 198(2) of that Act (interpretation of certain references to authority's local transport plan)—

- (a) for “local transport plan” (in the first place) substitute “ local transport policies ”;
- (b) for “the local transport plan made jointly by” substitute “ the local transport policies of ”;
- (c) omit the words from “and the councils” to the end.

### PART 3

#### BUS SERVICES

VALID FROM 09/02/2009

#### *Quality partnership schemes*

### 13 Quality partnership schemes

(1) Section 114 of the TA 2000 (quality partnership schemes) is amended as follows.

(2) In subsection (1), for the words from “will to any extent” to the end (which make it a condition that a scheme implement the policies in the authority's bus strategy) substitute “ will contribute to the implementation of their local transport policies ”.

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(3) For subsection (3)(a) (authority must be satisfied that scheme will improve quality of local services) substitute—

“(a) bring benefits to persons using local services in the whole or any part of their area, or combined area, by improving the quality of those services, or”.

(4) After subsection (3) insert—

“(3A) If the authority or authorities consider that it is necessary or expedient for any restrictions to be imposed on the registration of—

- (a) any local services, or
- (b) any local services of a particular description,

they may impose those restrictions (“registration restrictions”) by specifying or describing them in the scheme.

(3B) Any restrictions so imposed must be for the purpose of preventing or restricting—

- (a) the provision of local services, or
- (b) the variation or withdrawal of local services,

in cases where the authority or authorities consider that any such provision, or (as the case may be) variation or withdrawal, of services might be detrimental to the provision of services under the scheme.

(3C) Where a scheme includes any registration restrictions by virtue of subsection (3A), it must also specify the criteria (“registration criteria”) by reference to which the traffic commissioners are to decide whether or not to accept an application for registration.

(3D) In subsections (3A) to (3C) “registration”, in relation to any service,—

- (a) means registration of prescribed particulars of the service under section 6 of the Transport Act 1985 (registration of local services), and
- (b) includes a reference to the variation or cancellation of any such registration.”.

(5) For subsection (6) substitute—

“(6) The standard of services which may be specified in a scheme includes—

- (a) requirements which the vehicles being used to provide the services must meet, and
- (b) requirements as to frequency or timing of the services,

but the specification of any such requirements is not to prevent operators from providing services in excess of those requirements.”.

(6) After subsection (6) insert—

“(6A) The standard of services which may be specified in a scheme may also include requirements as to the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions, on services to which the scheme applies.



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(6B) A scheme may include a requirement falling within subsection (6)(b) or (6A) only if there are no admissible objections to the requirement from relevant operators.

Section 122(3) to (5) makes further provision with respect to such schemes.”.

(7) After subsection (6B) insert—

“(6C) The power to make a quality partnership scheme includes power to provide for different facilities, or different standards of services, to be provided under the scheme as from different dates after the scheme comes into operation.”.

VALID FROM 06/04/2009

#### 14 Notice and consultation requirements

- (1) Section 115 of the TA 2000 (notice and consultation requirements) is amended as follows.
- (2) In subsection (2) (contents of notice etc) after “details of the facilities and standards of services” insert “ , and of any registration restrictions and registration criteria, ”.
- (3) In subsection (4) (meaning of “relevant local authorities” for purposes of consultation) for paragraph (b) substitute—
  - “(b) district councils in England.”.

VALID FROM 06/04/2009

#### 15 Making a scheme: different dates for different facilities or standards etc

- (1) Section 116 of the TA 2000 (making of scheme) is amended as follows.
- (2) In subsection (2) (contents of scheme) after “The scheme must specify” insert “ each of the following ”.
- (3) After paragraph (b) of that subsection (standards of service) insert—
  - “(bb) any registration restrictions imposed by it and any registration criteria specified in it.”.
- (4) After paragraph (d) of that subsection (duration of scheme) insert—
  - “(e) if any facilities or standards of services are to be provided under the scheme as from a date after the scheme comes into operation, the date as from which they are to be so provided.”.
- (5) For subsections (4) and (5) (earliest date on which scheme may come into operation) substitute—
  - “(4) The date as from which any particular facilities, or any services of a particular standard, are to be provided must not be earlier than—
    - (a) in the case of facilities, the latest of dates A to C (see subsections (4B) to (4D)),

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(b) in the case of services, the later of dates A and D (see subsections (4B) and (4E)),  
unless the case falls within subsection (4A).

(4A) If under the scheme—

(a) particular facilities are to be provided by the authority or authorities, and

(b) as from the date by which the facilities are to be provided, services of a particular standard are to be provided by operators of local services when using the facilities,

the date as from which the facilities and the services are to be provided must not be earlier than the latest of dates A to D.

(4B) Date A is the date 3 months after the date on which the scheme is made.

(4C) Date B is the date by which, in the opinion of the authority or authorities, it will be reasonably practicable for the authority or authorities to provide the facilities.

(4D) Date C is the date 3 months after—

(a) the date on which any traffic regulation order required for the provision of any of the facilities is made, or

(b) if more than one such order is required for their provision, the date on which the last of them is made.

(4E) Date D is the date by which, in the opinion of the authority or authorities, it will be reasonably practicable for operators of local services to provide services of the particular standard.”.

(6) In section 162(4) of that Act (interpretation of references to authorities) for the entry relating to section 116 substitute— “ section 116(2)(a), (4)(a), (4A)(a) and, in the second place, (4C), ”.

VALID FROM 06/04/2009

## **16 Postponement of provision of particular facilities or standards of service**

(1) In section 117 of the TA 2000 (postponement, for up to 12 months, of date on which scheme comes into operation) for subsection (1) substitute—

“(1) If it appears to the authority or authorities appropriate to do so, they may decide that any of the dates specified in subsection (1A) shall be postponed by such period as they think fit.

A date may not be postponed under this subsection by a period or periods which in total exceed 12 months.

(1A) The dates are—

(a) the date on which the scheme is to come into operation,

(b) the date as from which any particular facilities are to be provided under the scheme,

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(c) the date as from which any particular services are to be provided to a particular standard under the scheme.”.

(2) In consequence of the amendment made by subsection (1), the heading to the section becomes “ Postponement of scheme or of provision of particular facilities or standards of service ”.

VALID FROM 06/04/2009

### 17 Effect of scheme: different dates for different facilities or standards etc

(1) Section 118 of the TA 2000 (effect of scheme) is amended as follows.

(2) For subsection (1) (facilities to be provided from date on which scheme comes into operation) substitute—

“(1) The authority or authorities must—

- (a) provide each of the specified facilities not later than the date specified for its provision under the scheme, and
- (b) continue to provide it throughout the remainder of the period for which the scheme is in operation.”.

(3) In subsection (4)(a) (operator of local services to give written undertaking to traffic commissioner) for the words from “that he will” to “when using the facilities” substitute “ that, when using the facilities on any date, he will provide the service to the standard specified in the scheme as it has effect in relation to that date ”.

VALID FROM 06/04/2009

### 18 Regulations about schemes which specify frequencies, timings or fares

(1) Section 122 of the TA 2000 (regulations about schemes) is amended as follows.

(2) In subsection (1) after paragraph (a) insert—

“(aa) the content or operation of schemes which include a requirement falling within section 114(6)(b) or (6A),”.

(3) After subsection (2) insert—

“(3) As regards schemes which include any requirement mentioned in section 114(6)(b) or (6A), regulations under subsection (1)(a) or (aa) may in particular make provision—

- (a) for section 114(6B) not to apply in such circumstances as may be prescribed,
- (b) requiring such schemes to include provision falling within subsection (4),
- (c) for any requirement as to frequencies, timings or maximum fares to be revised only if there are no admissible objections to the revision from relevant operators,

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- (d) in prescribed circumstances where such schemes, or any provisions of such schemes, are subject to postponement under section 117, for any such requirement not to take effect unless prescribed conditions are satisfied,
  - (e) as to the meaning of “admissible objection” for the purposes of section 114(6B) and paragraph (c) of this subsection,
  - (f) as to the meaning of “relevant operator” for those purposes,
  - (g) as to the determination of any question whether an objection is an admissible objection or an operator is a relevant operator.
- (4) The provision referred to in subsection (3)(b) is provision—
- (a) as respects the setting of frequencies, timings or maximum fares to which the requirements relate,
  - (b) for a minimum interval before any requirements as to frequencies, timings or maximum fares may next be reviewed,
  - (c) for a maximum interval before any such requirements must next be reviewed,
  - (d) as respects other circumstances in which any such requirements must or may be reviewed,
  - (e) as respects revision of any such requirements after a review.
- (5) Subsections (3)(b) and (4) have effect subject to, and in accordance with, the following provisions—
- (a) the revision of requirements as to frequencies, timings or maximum fares under any provision made in accordance with those subsections is not to be regarded as a variation of the scheme for the purposes of section 120 (variation or revocation of scheme), but
  - (b) nothing in those subsections or in paragraph (a) of this subsection shall be taken to derogate from what may be done under or by virtue of that section.
- (6) The provision that may be made by virtue of subsection (3)(g) includes provision for and in connection with—
- (a) the appointment of a person (“an adjudicator”) to make such a determination as is mentioned in that paragraph;
  - (b) the appointment of a person (“an assessor”) to assist an adjudicator in considering any question which appears to arise in relation to such a determination;
  - (c) the payment—
    - (i) by the appropriate national authority to an adjudicator, or
    - (ii) by the appropriate national authority or an adjudicator to an assessor,of such remuneration as may be determined by or in accordance with the regulations.”.

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VALID FROM 11/01/2010

### *Quality contracts schemes*

## **19 Quality contracts schemes**

- (1) Section 124 of the TA 2000 (bus services: quality contracts schemes) is amended as follows.
- (2) In subsection (1) (power of local transport authorities etc to make quality contracts schemes if satisfied it is the only way to implement policies in their bus strategies and it is economic etc) for paragraphs (a) and (b) substitute—
  - “(a) the proposed scheme will result in an increase in the use of bus services (see subsection (9B)) in the area to which the proposed scheme relates,
  - (b) the proposed scheme will bring benefits to persons using local services in the area to which the proposed scheme relates, by improving the quality of those services,
  - (c) the proposed scheme will contribute to the implementation of the local transport policies of the authority or authorities,
  - (d) the proposed scheme will contribute to the implementation of those policies in a way which is economic, efficient and effective, and
  - (e) any adverse effects of the proposed scheme on operators will be proportionate to the improvement in the well-being of persons living or working in the area to which the proposed scheme relates and, in particular, to the achievement of the objectives mentioned in paragraphs (a) to (d).”.
- (3) For subsection (2) (need to comply with notice and consultation requirements and obtain approval of appropriate national authority) substitute—
  - “(2) A quality contracts scheme may not be made unless the authority or authorities—
    - (a) have complied with the requirements of section 125,
    - (b) in the case of a scheme for an area in Wales, have obtained the approval of the Welsh Ministers in accordance with section 126, and
    - (c) in the case of a scheme for an area in England, meet the requirements of subsection (2A).
  - (2A) The requirements are that the authority or authorities—
    - (a) have published under section 126C(5) the request which they sent to the QCS board under section 126C(4), and
    - (b) publish, in accordance with section 127(1A), a response prepared by them to the report published by the QCS board under section 126D(5) in relation to the scheme.”.
- (4) In subsection (3)(b) (under quality contracts scheme local services to be provided only under quality contracts) after “section 127(4)” insert “ and section 132C ”.
- (5) After subsection (9) insert—
  - “(9A) The power to make a scheme jointly may be exercised only if—

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- (a) all the authorities are local transport authorities for areas in England, or
  - (b) all the authorities are local transport authorities for areas in Wales.”.
- (6) After subsection (9A) insert—
- “(9B) The reference in subsection (1)(a) to increasing the use of bus services includes a reference to reducing, arresting or reversing decline in the use of bus services.”.

## **20 Notice and consultation requirements**

- (1) Section 125 of the TA 2000 (notice and consultation requirements) is amended as follows.
- (2) In subsection (1) for the words from “they must give notice” to the end (which require the authority to give notice of the proposed scheme in a local newspaper) substitute “they must—
- (a) publish, in such manner as they think fit, a consultation document complying with subsection (1A),
  - (b) supply a copy of that document to each of the persons mentioned in subsection (3),
  - (c) give notice in accordance with subsection (2) of the proposed scheme in at least one newspaper circulating in the area to which it relates, and
  - (d) if the proposed scheme relates to an area in England, send a copy of that notice to the senior traffic commissioner as soon as reasonably practicable after its publication.”.
- (3) After subsection (1) insert—
- “(1A) The consultation document mentioned in subsection (1)(a) must include—
- (a) a description of the proposed scheme;
  - (b) a statement of the reasons why the authority or authorities are satisfied that the conditions in subsection (1) or, as the case may be, (1A) of section 124 are met;
  - (c) a description of any arrangements which the authority or authorities intend to make (including arrangements with other authorities or other persons) for or in connection with the implementation of the scheme;
  - (d) a statement of how any costs which the authority or authorities expect to incur under the scheme are to be defrayed;
  - (e) a declaration by the chief finance officer or officers of the authority or authorities that, after taking into account—
    - (i) any estimated income from fares, and
    - (ii) any grants from Ministers of the Crown or government departments,any remaining funding required to implement the scheme can be provided from other resources available to the authority or authorities;
  - (f) the date by which any written responses to the consultation must be submitted to the authority or authorities.

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- (1B) The description of the proposed scheme contained in the consultation document in accordance with subsection (1A)(a) must include—
- (a) an outline of the local services which are proposed to be provided under it;
  - (b) a statement of any proposed exclusions from the scheme by virtue of section 127(4).
- (1C) In subsection (1A)(e) “chief finance officer”, in relation to a local transport authority, means that officer of the authority who is responsible under—
- (a) section 151 of the Local Government Act 1972, or
  - (b) section 73 of the Local Government Act 1985,
- for making arrangements for the proper administration of the financial affairs of the authority.”.
- (4) In subsection (2) (contents of notice)—
- (a) at the end of paragraph (a) insert “ and ”;
  - (b) in paragraph (b) after “a copy of the scheme” insert “ and the consultation document ”;
  - (c) omit paragraph (c) and the word “and” preceding it.
- (5) In subsection (3) (consultees) at the beginning of paragraph (e) (traffic commissioners for the area of the scheme) insert “ if the proposed scheme relates to an area in Wales, ”.

*QCS boards for England and approval by Welsh Ministers in Wales*

VALID FROM 11/01/2010

**21 Approval of proposed schemes: required for areas in Wales only**

- (1) Section 126 of the TA 2000 (approval of proposed scheme) is amended as follows.
- (2) Before subsection (1) insert—
 

“(A1) This section has effect in any case where the scheme or proposed scheme relates to an area in Wales.”.
- (3) In subsection (1) (which refers to compliance with section 125) after “complied with” insert “ the requirements of ”.
- (4) In subsection (3) (right of person consulted under section 125(3) to make representations) for “consulted” substitute “ who was consulted, or who is aggrieved at not being consulted, ”.
- (5) In subsection (4)(a)—
  - (a) for “paragraphs (a) and (b)” substitute “ paragraphs (a) to (e) ”, and
  - (b) omit “or (as the case may be) paragraphs (a) to (d) of section 124(1A)”.
- (6) The heading to the section accordingly becomes “ Approval of proposed schemes for areas in Wales ”.



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VALID FROM 11/01/2010

## 22 Boards for proposed schemes for areas in England

(1) After section 126 of the TA 2000 (approval of proposed scheme) insert—

### “126A Boards for proposed schemes for areas in England

- (1) Where the senior traffic commissioner receives a copy of a notice sent by the authority or authorities pursuant to section 125(1)(d), a board (a “QCS board”) is to be constituted in accordance with the provisions of this Part to discharge the functions of such a board in relation to the proposed scheme.
- (2) The board is to consist of 3 members.
- (3) The members shall be—
  - (a) one traffic commissioner (“the Commissioner”),
  - (b) two persons drawn from a panel of persons appointed by the Secretary of State for the purposes of this section.
- (4) The Commissioner is to chair the board.
- (5) Within a prescribed period of receiving the copy of the notice mentioned in subsection (1), the senior traffic commissioner is to—
  - (a) designate the traffic commissioner who is to be the Commissioner in the case of the particular board,
  - (b) give notice of that designation to the authority or authorities, in accordance with the prescribed procedure, identifying the person designated,
  - (c) publish, in such manner as may be prescribed, notice of the designation, identifying the person designated.
- (6) The traffic commissioner who is to be so designated is that one of the traffic commissioners whom the senior traffic commissioner considers most appropriate in all the circumstances of the particular case by reason of any particular knowledge or experience that the traffic commissioner may have.

This is subject to subsections (7) and (8).
- (7) If the senior traffic commissioner considers that the traffic commissioner who would otherwise fall to be designated to be the Commissioner ought not to be so designated—
  - (a) because of the traffic commissioner's illness, incapacity, absence or impending vacation of office, or
  - (b) because the traffic commissioner is prevented from being the Commissioner by subsection (8),the senior traffic commissioner is to designate a different traffic commissioner to be the Commissioner.
- (8) A traffic commissioner whose ability to act impartially in the case of any particular scheme is, in the opinion of that traffic commissioner, in any way impaired must not act as the Commissioner in relation to that scheme.

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- (9) If the senior traffic commissioner is unable to discharge the duty to make a designation under subsection (5), the duties of the senior traffic commissioner under that subsection are to be discharged by the Secretary of State instead.
- (10) The persons who are to be members of the board by virtue of subsection (3)(b) are to be designated in such manner and at such time as may be prescribed.
- (11) The Secretary of State shall pay to each person appointed under subsection (3)(b) such remuneration in respect of the person's services as may be determined by the Secretary of State with the consent of the Treasury.
- (12) In this section “prescribed” means prescribed in regulations under section 126E or 133.”
- (2) In section 162 of the TA 2000 (interpretation of Part 2) insert the following definition at the appropriate place in subsection (1)—
- ““QCS board” is to be read in accordance with section 126A(1).”

## 23 Advice by boards or their Commissioners

After section 126A insert—

### “126B Advice by boards or their Commissioners

- (1) This section applies at any time after the traffic commissioner who is to chair the QCS board for the proposed scheme has been designated under section 126A.
- (2) The QCS board may give advice about matters of a procedural nature to any person who requests it before the end of the appropriate period.
- (3) For the purposes of subsection (2), the end of the appropriate period is—
- the date on which a scheme is made, or
  - if no scheme is made, the date on which the authority or authorities give notice to the board under section 126C(7) that they have decided not to proceed with the proposed scheme.
- (4) The board may not, under subsection (2), give advice about the merits of the proposed scheme.
- (5) If the Secretary of State thinks it appropriate to do so in connection with securing propriety in the giving of advice under subsection (2), the Secretary of State may by regulations make provision about the giving of advice under that subsection (but not about what the advice is to be).
- (6) In particular, regulations under subsection (5) may make provision that has the effect that—
- a person's request for advice under subsection (2), or
  - advice given under subsection (2) to a person,
- must be, or may be, disclosed by the board to persons other than that person or to the public generally.

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- (7) In relation to requests received at any time before the members of the board have been designated, the functions of the board under this section are exercisable on behalf of the board by the traffic commissioner who has been designated to chair the board.”.

#### Commencement Information

**I3** S. 23 partly in force; s. 23 in force at Royal Assent for specified purposes, see s. 134(1)(c)

VALID FROM 11/01/2010

## 24 Consideration of proposed schemes by boards

After section 126B insert—

### “126C Requests for boards to begin consideration etc of proposed schemes

- (1) This section applies in any case where—
  - (a) the proposed scheme is for an area in England, and
  - (b) the authority or authorities have complied with the requirements of section 125(1) to (3).
- (2) If the authority or authorities wish to proceed with the proposed scheme, they must send each of the following to the QCS board as soon as reasonably practicable after the end of the consultation period—
  - (a) copies of all written responses received from the persons consulted,
  - (b) information about representations made orally at meetings or other events held by the authority or authorities during the consultation period,
  - (c) a summary of the action which the authority or authorities have taken to comply with the requirements of section 125(1) to (3).
- (3) The authority or authorities must have complied with subsection (2) before they send the board a request under subsection (4).
- (4) When the authority or authorities consider it appropriate to do so, they are to send to the board a written request for it to begin the performance of its functions under section 126D in relation to the proposed scheme.
- (5) If the authority or authorities send the board a request under subsection (4), they must also—
  - (a) publish the request,
  - (b) send to the board a copy of the proposed scheme that it is to consider under section 126D,
  - (c) if the proposed scheme mentioned in section 125(2) differs from the proposed scheme mentioned in paragraph (b), publish a notice stating where a copy of the proposed scheme mentioned in paragraph (b) may be inspected.

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- (6) If, following the sending of a request under subsection (4), the authority or authorities—
- (a) modify the proposed scheme under section 125(5) or section 126D(7), and
  - (b) desire the QCS board to exercise its functions under section 126D in relation to the proposed scheme, as modified,
- they may send the board a further request under subsection (4).

- (7) If at any time the authority or authorities decide not to proceed with the proposed scheme, they must—
- (a) give written notice of that decision to the QCS board, and
  - (b) publish notice that they have done so.

### **126D Consideration of proposed schemes by boards**

- (1) Following receipt of a request from the authority or authorities under section 126C(4), the QCS board is to consider the proposed scheme and—
- (a) form an opinion whether the conditions set out in the paragraphs of section 124(1) or, as the case may be, of section 124(1A) are met in the case of the proposed scheme;
  - (b) form an opinion whether the authority or authorities have complied with the requirements of section 125(1) to (3).
- (2) If the board is of the opinion that the conditions mentioned in subsection (1) (a) are not met, it may make recommendations as to actions that the authority or authorities might take in response to that opinion.
- (3) If the board is of the opinion that the authority or authorities have not complied with the requirements of section 125(1) to (3), it may make recommendations as to actions that the authority or authorities might take in response to that opinion.
- (4) If, in performing its functions under subsection (1)(b), the board is of the opinion that any person who was not consulted under section 125(3) ought to have been so consulted, that person has—
- (a) the rights of appeal under section 127A that are conferred by virtue of subsection (3)(b) of that section, or
  - (b) in a case where this section applies by virtue of section 131C(3) (non-exempt proposal to continue scheme), the rights of appeal under section 131F that are conferred by virtue of subsection (3)(b) of that section.
- (5) The board is to give notice to the authority or authorities of—
- (a) the opinions that it has formed on the questions in paragraphs (a) and (b) of subsection (1),
  - (b) any recommendations that it makes under subsection (2) or (3),
  - (c) its reasons for forming those opinions and making any such recommendations,
- and is to publish a report stating those opinions, recommendations and reasons.

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- (6) If, in a case where the board makes recommendations under subsection (3), the authority or authorities take the action recommended by the board and publish notice that they have done so, this Part has effect as if—
- (a) the authority or authorities had complied with the requirements of section 125(1) to (3) to which the recommendations relate, and
  - (b) the opinion formed by the board on the question in subsection (1) (b) had included (and had been stated in the report as including) the opinion that the authority or authorities had complied with those requirements.
- (7) Following receipt of the notice under subsection (5), the authority or authorities may modify the proposed scheme.
- (8) If the authority or authorities—
- (a) modify the proposed scheme by virtue of subsection (7) or section 125(5), and
  - (b) send the board a request under section 126C(4) by virtue of section 126C(6),
- this section has effect with such modifications or exclusions as may be prescribed by regulations under section 126E or 133.”.

## 25 Practice and procedure of boards

After section 126D of the TA 2000 insert—

### “126E Practice and procedure of boards

- (1) The Secretary of State may make regulations—
- (a) with respect to the constitution of a QCS board,
  - (b) with respect to the powers and duties of any such board,
  - (c) governing the practice and procedure to be followed by any such board, and
  - (d) generally for the carrying into effect of the powers and duties of any such board.
- (2) The provision that may be made by regulations under subsection (1) includes—
- (a) provision about requests under section 126C(4);
  - (b) provision for an acknowledgement of the receipt of any such request to be issued by such person, and within such time, as may be prescribed in the regulations;
  - (c) the procedure to be followed in cases where a further request under section 126C(4) is sent to the QCS board by virtue of section 126C(6) in relation to a proposed scheme which has been modified (the “modified scheme”);
  - (d) provision for or in connection with the making of representations about the modified scheme;
  - (e) the publication by the board of provisional findings before it publishes its report.

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- (3) Regulations may prescribe the time within which the Secretary of State considers that any QCS board should normally have published its report.
- (4) It is the duty of a QCS board to take all reasonable steps to publish its report within that time.
- (5) If a QCS board does not publish its report within that time, the Commissioner must immediately prepare a statement of—
  - (a) the reasons why the board has not published its report within that time;
  - (b) the action the board is taking to publish its report as soon as reasonably practicable;
  - (c) the time within which it is expected that the board will publish its report.
- (6) As soon as reasonably practicable after the statement required by subsection (5) has been prepared, the Commissioner must send a copy of it to each of the following—
  - (a) the Secretary of State;
  - (b) the authority or authorities proposing to make the scheme.
- (7) The Secretary of State may issue guidance concerning the carrying out by a QCS board of its functions under this Part in relation to quality contracts schemes.
- (8) A QCS board must have regard to any such guidance.
- (9) In this section—
  - “the Commissioner” has the same meaning as in section 126A;
  - “regulations” means regulations made by the Secretary of State;
  - “report” means the report which the board is required to publish by virtue of section 126D(5).”.

#### Commencement Information

**I4** S. 25 partly in force; s. 25 in force at Royal Assent for specified purposes, see s. 134(1)(c)

### *Making and duration of quality contracts schemes*

## 26 Making of scheme

- (1) Section 127 of the TA 2000 (making of scheme) is amended as follows.
- (2) For subsection (1) (making of scheme to be not later than 6 months after approval by appropriate national authority) substitute—
  - “(1) The authority or authorities who proposed the scheme may make it—
    - (a) in the case of a scheme for an area in England, in accordance with the requirements of subsection (1A);
    - (b) in the case of a scheme for an area in Wales, in accordance with the requirements of subsection (1B).

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(1A) If the scheme is for an area in England, the authority or authorities who proposed it—

- (a) must not make the scheme until they publish a response prepared by them to the report published by the QCS board under section 126D(5) in relation to the scheme, but
- (b) subject to that, may make the scheme at any time not later than 6 months after the publication of that report.

Any such response must state the actions (if any) which the authority or authorities have taken in relation to each of the board's recommendations (if any) under section 126D(2) or (3).

(1B) If—

- (a) the scheme is for an area in Wales, and
- (b) the Welsh Ministers approve the scheme under section 126,

the authority or authorities who proposed it may make it, as approved, at any time not later than 6 months after the date of the approval.”.

(3) In subsection (2) (what the scheme must specify) for paragraph (b) (date on which scheme comes into operation etc) substitute—

- “(b) the date on which it is to come into operation or, if the scheme provides for different provisions to come into operation on different dates, or on different dates for different purposes, those dates in the case of each provision, and”.

(4) In subsection (2), in paragraph (c) (maximum period for which scheme to remain in operation) after “ten years” insert “ from the earliest date on which the scheme or any of its provisions comes into operation. ”.

(5) After subsection (2) insert—

- “(2A) No date that is to be specified under subsection (2)(b) may be earlier than 6 months after the scheme is made.”.

(6) After subsection (3) insert—

- “(3A) The scheme must specify the date or dates on which it is proposed that the authority or authorities will issue invitations to tender for the provision of any services to which the scheme relates (see section 130).”.

(7) In subsection (9) (contents of notice under subsection (8)) for paragraph (c) (date on which scheme comes into operation) substitute—

- “(c) the date or dates on which the scheme, or the different provisions of the scheme, are to come into operation.”.

(8) For subsection (10) (power by order to vary the period mentioned in subsection (2) (b)) substitute—

- “(10) The appropriate national authority may by order vary any of the periods mentioned in subsection (1A), (1B) or (2A).”.

(9) In section 162(4) of the TA 2000 (provisions where references to Passenger Transport Authorities or Integrated Transport Authorities are to be read as references to Passenger Transport Executives) insert at the appropriate place in the list of provisions — “ section 127(3A), ”.



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### Commencement Information

**I5** S. 26 partly in force; s. 26(8) in force at Royal Assent for specified purposes, see s. 134(1)(c)

VALID FROM 11/01/2010

## 27 Appeals against the making of schemes for areas in England

(1) After section 127 of the TA 2000 insert—

### “127A Appeals against the making of schemes for areas in England

- (1) This section applies where an authority or authorities make a quality contracts scheme for an area in England.
- (2) Any person falling within subsection (3) may appeal to the Transport Tribunal against the decision of the authority or authorities to make the scheme.
- (3) The persons are—
  - (a) any person who was consulted under section 125(3),
  - (b) any person who was not consulted under section 125(3) but who, in the opinion of the QCS board under section 126D(1)(b), ought to have been so consulted.
- (4) An appeal under this section may be—
  - (a) on a point of law, or
  - (b) on a question of fact, unless subsection (5) prevents it.
- (5) No appeal lies under this section on a question of fact (and no question of fact is to be entertained by the Tribunal on an appeal under this section) in any case where subsection (6) applies.
- (6) This subsection applies if the QCS board stated in its report under section 126D(5) that it is of the opinion—
  - (a) that the conditions in the paragraphs of section 124(1) or, as the case may be, of section 124(1A) are met, and
  - (b) that the authority or authorities have complied with the requirements of section 125(1) to (3) (or are by virtue of section 126D(6) to be taken to have complied with those requirements by virtue of having taken any action recommended by the board in any previous reports),
 and if the scheme, as made, corresponds to the proposed scheme to which that report relates.
- (7) The authority or authorities may issue invitations to tender in accordance with section 130(1) notwithstanding the lodging of any appeal under or by virtue of this section.

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### **127B Powers of the Transport Tribunal on an appeal under section 127A**

- (1) On an appeal under section 127A the Transport Tribunal shall have power—
    - (a) to make such order as they think fit, or
    - (b) to remit any matter (with or without directions) to the authority or authorities for their consideration or determination or for such other purposes as the Tribunal may direct.
  - (2) The powers of the Tribunal on an appeal under section 127A include power to do any one or more of the following—
    - (a) dismiss the appeal in whole or in part,
    - (b) remit the matter to the authority or authorities with one or more directions under subsection (3),
    - (c) direct the authority or authorities to vary the scheme in such manner as the Tribunal may specify in the direction (but see subsection (4)),
    - (d) quash the decision of the authority or authorities (but see subsection (5)).
  - (3) A direction under this subsection is a direction for the authority or authorities to do each of the following—
    - (a) consider or reconsider such matters as may be specified in the direction,
    - (b) consult or further consult as respects those matters in such manner as may be specified in the direction,
    - (c) vary the scheme in such respects as may in consequence appear appropriate to the authority or authorities.
  - (4) The Tribunal may give a direction under this section to vary the scheme by reducing the area to which the scheme relates only if they are of the opinion that the conditions in section 132(3) are met.
  - (5) The power of the Tribunal under this section to quash the decision of the authority or authorities is exercisable only if the Tribunal are of the opinion that there are defects in the scheme which are not capable of being remedied by varying the scheme under or by virtue of subsection (2)(b) or (c).
  - (6) Where, on an appeal under section 127A, the Tribunal exercises any power falling within paragraph (b) of subsection (2) above, the only further appeal allowed under that section is an appeal against a decision of the authority or authorities to vary, or not to vary, the scheme by virtue of subsection (3)(c).”
- (2) In section 162(4) of the TA 2000 (provisions where references to Passenger Transport Authorities or Integrated Transport Authorities are to be read as references to Passenger Transport Executives) insert at the appropriate place in the list of provisions— “ section 127A(7), ”.

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VALID FROM 11/01/2010

## 28 Postponement of scheme in part

In section 128 of the TA 2000 (postponement of scheme) in subsection (1)—

- (a) after “the scheme”, in the second place where those words occur, insert “ , or any particular provision of the scheme, ”;
- (b) after “would otherwise come into operation” insert “ , or come into operation for any particular purpose or purposes, ”.

VALID FROM 11/01/2010

## 29 Effect of scheme: different operational dates and excepted services

(1) Section 129 of the TA 2000 (effect of scheme) is amended as follows.

(2) In subsection (1) (consequences for period during which scheme is in operation)—

- (a) after “the scheme” insert “ , or (in the case of a scheme which provides for different provisions to come into operation on different dates) any provision of the scheme, ”;
- (b) in paragraph (a), for “the area to which it relates” substitute “ the area to which the scheme, or that provision, relates ”;
- (c) in paragraph (b), after “under a quality contract” insert “ or is an interim service (see section 132C) ”.

(3) In subsection (2) (exception for services excluded from the scheme by virtue of section 127(4)) after “But subsection (1) does not apply” insert “—

- (a) so as to prevent the application of sections 6 to 9 of the Transport Act 1985 in relation to any service by virtue or in consequence of section 6B of that Act (application for registration or variation where quality contracts scheme in force),
- (b) so as to prevent the provision of any service registered under section 6 of the Transport Act 1985 by virtue of section 6B of that Act, or
- (c) ”.

(4) Subsection (4) (tenders to be invited not later than 3 months after the scheme has been made) shall cease to have effect.

VALID FROM 11/01/2010

## 30 Extension of maximum period of quality contracts

(1) Section 130 of the TA 2000 (tendering for quality contracts) is amended as follows.

(2) In subsection (1) (authority to tender for provision of services) after “services to which the scheme” insert “ , or each provision of the scheme, ”.

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- (3) In subsection (2) (period of contract not to exceed five years) for “five” substitute “ 10 ”.

### *Continuation of quality contracts schemes*

VALID FROM 11/01/2010

## **31 Continuation of schemes for further periods**

After section 131 of the TA 2000 insert—

### **“131A Continuation of schemes for further periods**

- (1) If it appears to them appropriate to do so, the authority or authorities who made a quality contracts scheme (other than any to whose area the scheme no longer relates) may decide that the scheme should continue in operation for a further period, with or without modification.
- (2) Before making such a decision, they must, unless the proposal that the scheme should continue is an exempt continuation proposal (see section 131B), comply with the requirements of—
  - (a) section 124(2)(b) (approval by Welsh Ministers), if the scheme is for an area in Wales, or
  - (b) section 124(2)(c) (publication of request to, and response to report of, QCS board), if the scheme is for an area in England.
- (3) Section 125 applies in relation to the continuation of a scheme under this section as it applies in relation to the making of a scheme, but with the following modifications—
  - (a) any reference to a proposal to make a scheme is to be read as a reference to a proposal for the continuation of a scheme,
  - (b) any reference to the proposed scheme is to be read as a reference to the scheme as proposed to continue in operation,and with the further modifications specified in subsections (4) and (5), but this is subject to such modifications or exclusions as may be prescribed by regulations under section 133.
- (4) If the proposal is an exempt continuation proposal—
  - (a) section 125(1)(d) (duty to send copy of notice to senior traffic commissioner if scheme relates to area in England) does not apply, but
  - (b) section 125(3)(e) (duty to consult traffic commissioners for areas to which scheme relates) applies with the omission of the words “if the proposed scheme relates to an area in Wales,”.
- (5) The consultation document that is to be published by virtue of section 125(1)
  - (a), as applied by subsection (3), must (instead of complying with section 125(1A)) include—
    - (a) a description of the scheme, together with any proposed modifications to it;

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- (b) a statement of the opinion of the authority or authorities as to the effectiveness of the scheme in achieving the objectives set out in paragraphs (a) to (e) of section 124(1) or, as the case may be, paragraphs (b) and (d) of section 124(1A) up to the date of the report;
  - (c) a statement of the reasons why they are satisfied that the scheme as proposed to be continued (with any proposed modifications) will meet the conditions in subsection (1) or, as the case may be, (1A) of section 124;
  - (d) a description of any arrangements which the authority or authorities intend to make (including arrangements with other authorities or other persons) for or in connection with the continuation of the scheme;
  - (e) a statement of the period for which it is proposed that the scheme should continue in operation, which must not be more than a further 10 years;
  - (f) if the authority or authorities consider that the proposal for the scheme to continue is an exempt continuation proposal, a statement of that fact;
  - (g) a statement of how any costs which the authority or authorities expect to incur under the scheme are to be defrayed;
  - (h) a declaration by the chief finance officer or officers of the authority or authorities that, after taking into account—
    - (i) any estimated income from fares, and
    - (ii) any grants from Ministers of the Crown or government departments,
 any remaining funding required to continue the scheme in operation can be provided from other resources available to the authority or authorities;
  - (i) the date by which any written responses to the consultation must be submitted to the authority or authorities.
- (6) For the purposes of this section—
- (a) subsection (1B) of section 125 (matters to be included in the description of the proposed scheme) applies for the purposes of subsection (5)(a) as it applies for the purposes of subsection (1A) (a) of that section, and
  - (b) subsection (1C) of that section (meaning of “chief finance officer”) applies for the purposes of subsection (5)(h) as it applies for the purposes of subsection (1A)(e) of that section.
- (7) The consultation document mentioned in subsection (5) must be published and supplied in accordance with section 125(1)(a) and (b) (as applied by this section) not less than 12 months before the scheme's expiry date.
- (8) For the purposes of this section, a scheme's “expiry date” is the later of the following dates—
- (a) the end of the period specified in the scheme in accordance with section 127(2)(c),

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- (b) if the scheme has been continuing in operation by virtue of the previous application of this section, the end of the period for which it is so continuing in operation.
- (9) The period for which a scheme continues in operation by virtue of a decision under subsection (1) may begin—
  - (a) on such day falling before, on, or immediately after the scheme's expiry date as the authority or authorities decide, or
  - (b) if the circumstances are such that the continuation of the scheme cannot begin on a day falling within paragraph (a), on such later day as the authority or authorities decide in accordance with regulations made by the appropriate national authority for the purposes of such circumstances.
- (10) If the authority or authorities publish and supply a consultation document in accordance with subsection (7), the scheme remains in operation (without any modifications proposed by them under subsection (1)) until—
  - (a) in a case where the scheme is to continue in operation for a further period, the day before the beginning of that period, or
  - (b) in any other case, the scheme's expiry date.
- (11) Section 130 (tendering) applies to a scheme that continues in operation under this section (whether or not the proposal for the scheme to continue in operation was an exempt continuation proposal) but subject to regulations made by the appropriate national authority under section 133(3).”.

VALID FROM 11/01/2010

## 32 Exempt continuation proposals

(1) After section 131A of the TA 2000 insert—

### “131B Meaning of “exempt continuation proposal”

- (1) For the purposes of this Part a proposal that a quality contracts scheme should continue in operation is an “exempt continuation proposal” if—
  - (a) any one or more of Conditions 1 to 3 are met and Conditions A and B are met, or
  - (b) the circumstances are as prescribed in regulations made by the appropriate national authority.
- (2) Condition 1 is that it is not proposed that the area to which the continuation scheme relates is to be greater than the area to which the existing scheme relates.
- (3) Condition 2 is that it is proposed that the area to which the continuation scheme relates is to be greater than the area to which the existing scheme relates, but—
  - (a) the additional area proposed to be included falls wholly within the area or combined area of the authority or authorities proposing the continuation of the scheme, and

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- (b) it is not proposed that under the continuation scheme any descriptions of local services are to be provided under quality contracts in addition to the descriptions of local services so provided under the existing scheme.
- (4) Condition 3 is that during the period while the existing scheme has been in force—
- (a) there has been a change in the area of the authority, or of any of the authorities, that last made or continued the scheme, or
- (b) a different authority has become the local transport authority for some or all of the area to which the scheme relates,
- but it is not proposed that under the continuation scheme any descriptions of local services are to be provided under quality contracts in addition to the descriptions of local services so provided under the existing scheme.
- (5) Condition A is that it is not proposed under the continuation scheme that any local services which, immediately before the coming into force of that scheme, were unregulated services are under the continuation scheme to be provided under quality contracts.
- (6) Condition B is that it is not proposed under the continuation scheme that any services which, immediately before the coming into force of that scheme, were excluded services in the case of the existing scheme are not to be excluded services in the case of the continuation scheme.
- (7) In this section—
- “the continuation scheme” means the scheme as proposed to continue in operation;
- “excluded services”, in the case of any quality contracts scheme, means any local services, or class of local services, which are excluded from the scheme by virtue of section 127(4);
- “the existing scheme” means—
- (a) the scheme as last continued or varied, or
- (b) if the scheme has not previously been continued or varied, the scheme as originally made;
- “unregulated services” means any local services provided otherwise than—
- (a) under a contract with one or more local transport authorities, or
- (b) by an authority or authorities acting under section 132C(2) (power to provide interim services in exceptional circumstances);
- and any reference to the coming into force of a scheme includes a reference to the coming into force of any particular provision of it.
- (8) See also section 131E (which makes provision about appeals relating to exempt continuation proposals).”.
- (2) In section 162 of that Act (interpretation of Part 2) insert the following definition at the appropriate place in subsection (1)—
- ““exempt continuation proposal” is to be read in accordance with section 131B,”.



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VALID FROM 11/01/2010

### 33 Continuation of schemes for areas in England: procedure

After section 131B of the TA 2000 insert—

#### “131C Continuation of schemes for areas in England: procedure

- (1) This section has effect with respect to the continuation in operation under section 131A (or the proposed continuation in operation under that section) of a quality contracts scheme for an area in England (whether with or without modifications).
- (2) If the proposal for the continuation of the scheme—
  - (a) is an exempt continuation proposal, or
  - (b) in a case where the authority or authorities have decided that the scheme should continue, was such a proposal,subsections (2) and (3) to (9) of section 127 apply in relation to the continuation of the scheme as they apply in relation to the making of a scheme, but with the modifications in subsection (4).
- (3) Where subsection (2) does not apply, sections 126A to 127 apply in relation to the continuation of a scheme as they apply in relation to the making of a scheme, but with the modifications in subsection (4).
- (4) The modifications are—
  - (a) any reference to a proposal to make a scheme is to be read as a reference to a proposal for the continuation of a scheme,
  - (b) any reference to making a scheme is to be read as a reference to deciding that a scheme should continue in operation,
  - (c) any reference to the proposed scheme is to be read as a reference to the scheme as proposed to continue in operation,
  - (d) any reference to any conditions set out in any paragraphs of section 124(1) or (as the case may be) of section 124(1A) being met is to be read as a reference to those conditions being met by the scheme as proposed to continue in operation (with any proposed modifications),
  - (e) any reference to section 125 or any provision of that section is to be read as a reference to that section or provision as it has effect by virtue of section 131A,
  - (f) the references in section 127(2)(b) and (9)(c) to the date or dates on which the scheme is, or provisions of the scheme are, to come into operation are to be read as references to the day decided by the authority or authorities by virtue of section 131A(9),
  - (g) section 127 has effect with the omission of subsection (2A) (scheme not to come into operation until 6 months after making),but further or different modifications, or exclusions, may also be made by regulations under section 133(3)(b).

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- (5) If, acting on the basis that the proposal for the continuation of the scheme is an exempt continuation proposal, the authority or authorities decide that the scheme is to continue, they must—
- (a) publish in such manner as they think fit, and within the time allowed, a notice announcing their decision on the proposal,
  - (b) supply a copy of that notice to each of the persons mentioned in section 125(3) as it applies by virtue of section 131A in a case where the proposal is an exempt continuation proposal, and
  - (c) give notice of the decision in accordance with section 127(8) and (9).
- (6) For the purposes of subsection (5)(a), the time allowed is the period of 6 months following the date of publication of the consultation document required by section 125(1) as applied by section 131A.”.

VALID FROM 11/01/2010

#### 34 Continuation of schemes for areas in Wales: procedure

After section 131C of the TA 2000 insert—

##### “131D Continuation of schemes for areas in Wales: procedure

- (1) This section has effect with respect to the continuation in operation under section 131A (or the proposed continuation in operation under that section) of a quality contracts scheme for an area in Wales (whether with or without modifications).
- (2) Subsections (2) and (3) to (9) of section 127 apply in relation to the continuation of the scheme as they apply in relation to the making of a scheme, but with the modifications in subsection (4).
- (3) Unless the proposal for the continuation of the scheme—
  - (a) is an exempt continuation proposal, or
  - (b) in a case where the authority or authorities have decided that the scheme should continue, was such a proposal,
 subsections (1)(b) and (1B) of section 127 also apply in relation to the continuation of the scheme, and with the modifications in subsection (4).
- (4) The modifications are—
  - (a) any reference to proposing to make a scheme is to be read as a reference to proposing the continuation of a scheme,
  - (b) any reference to making a scheme is to be read as a reference to deciding that a scheme should continue in operation,
  - (c) any reference to the proposed scheme is to be read as a reference to the scheme as proposed to continue in operation,
  - (d) the references in section 127(2)(b) and (9)(c) to the date or dates on which the scheme is, or provisions of the scheme are, to come into operation are to be read as references to the day decided by the authority or authorities by virtue of section 131A(9),

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but further or different modifications, or exclusions, may also be made by regulations under section 133(3)(b).

- (5) Subsection (6) applies in any case where—
- (a) an authority or authorities propose that a quality contracts scheme for an area in Wales should continue in operation (with or without modification) under section 131A, and
  - (b) the proposal is not an exempt continuation proposal.
- (6) In any such case, section 126 (approval by Welsh Ministers of proposed schemes for areas in Wales) applies in relation to a proposal for the continuation of a scheme as it applies in relation to a proposal to make a scheme, but with the modifications set out in subsection (7).
- (7) The modifications are—
- (a) any reference to a proposed scheme is to be read as a reference to a proposal for a scheme to continue in operation under section 131A;
  - (b) the reference in section 126(2)(a) to wishing to make a scheme is to be read as a reference to wishing that a scheme should continue in operation;
  - (c) any reference to any conditions set out in any paragraphs of section 124(1) being met is to be read as a reference to those conditions being met by the scheme as proposed to continue in operation (with any proposed modifications);
  - (d) any reference to section 125 or any provision of that section is to be read as a reference to that section or provision as it has effect by virtue of section 131A.
- (8) If, acting on the basis that the proposal for the continuation of the scheme is an exempt continuation proposal, the authority or authorities decide that the scheme is to continue, they must—
- (a) publish in such manner as they think fit, and within the time allowed, a notice announcing their decision on the proposal,
  - (b) supply a copy of that notice to each of the persons mentioned in section 125(3) as it applies by virtue of section 131A, and
  - (c) give notice of the decision in accordance with section 127(8) and (9).
- (9) For the purposes of subsection (8)(a), the time allowed is the period of 6 months following the date of publication of the consultation document required by section 125(1)(a) as it applies by virtue of section 131A.”.

## 35 Appeals where proposed continuation considered exempt

After section 131D of the TA 2000 insert—

### “131E Appeals where proposed continuation considered exempt

- (1) This section applies where an authority or authorities who propose that a quality contracts scheme should continue in operation (with or without modifications) under section 131A—
- (a) decide that the proposal is an exempt continuation proposal, and

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- (b) acting on the basis of that decision, decide that the scheme should so continue in operation.
- (2) Any person falling within subsection (3) may appeal to the Transport Tribunal against—
  - (a) the decision of the authority or authorities that the proposal is an exempt continuation proposal, or
  - (b) the decision of the authority or authorities that the scheme is to continue in operation (with or without any modifications).
- (3) The persons are—
  - (a) any person who was consulted under section 125(3) (as it applies by virtue of section 131A in a case where the proposal is an exempt proposal),
  - (b) any person who was not so consulted, but who, in the opinion of the Transport Tribunal, ought to have been so consulted.
- (4) An appeal under this section may be—
  - (a) on a point of law, or
  - (b) on a question of fact.
- (5) On an appeal under this section the Transport Tribunal shall have power—
  - (a) to make such order as they think fit, or
  - (b) to remit any matter (with or without directions) to the authority or authorities for their consideration or determination or for such other purposes as the Tribunal may direct.
- (6) The powers of the Tribunal on an appeal under this section include power to do any one or more of the following—
  - (a) dismiss the appeal in whole or in part,
  - (b) remit the matter to the authority or authorities with one or more directions under subsection (7),
  - (c) direct the authority or authorities to vary the scheme, as it continues or is to continue in operation, in such manner as the Tribunal may specify in the direction (but see subsection (8)),
  - (d) quash the whole or any part of the decision of the authority or authorities (but see subsection (9)).
- (7) A direction under this subsection is a direction for the authority or authorities to do each of the following—
  - (a) consider or reconsider such matters as may be specified in the direction,
  - (b) as respects those matters, consult or further consult the persons mentioned in section 125(3) as it applies by virtue of section 131A in a case where the proposal is an exempt continuation proposal,
  - (c) make such variations of the scheme, as it continues or is to continue in operation, as may in consequence appear appropriate to the authority or authorities.
- (8) The Tribunal may give a direction under this section to vary a scheme by reducing the area to which it relates only if they are of the opinion that the conditions in section 132(3) are met.

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- (9) The power of the Tribunal under this section to quash a decision of an authority or authorities that a scheme should continue in operation under section 131A is exercisable only if the Tribunal are of the opinion that there are defects in the scheme which are not capable of being remedied by varying the scheme under or by virtue of subsection (6)(b) or (c).
- (10) If, on an appeal under paragraph (a) or (b) of subsection (2), the Tribunal decide that the proposal for the scheme to continue in operation was not an exempt continuation proposal—
- (a) they must allow the appeal to that extent,
  - (b) they must remit the matter to the authority or authorities, with or without directions, and
  - (c) subsections (11) to (14) have effect.
- (11) The directions that the Tribunal may give under this section include—
- (a) directions to take any action specified in the directions for the purpose of remedying any failure to comply with requirements of this Part that have effect where a proposal for continuation under section 131A is not an exempt continuation proposal,
  - (b) directions to make variations specified in the directions for the purpose of securing that the condition in paragraph (a) or (b) of subsection (1) of section 131B (meaning of “exempt continuation proposal”) is met in the case of the scheme,
  - (c) directions authorising the scheme to continue in operation temporarily, with or without variations, for a period specified or described in the directions, but subject to compliance with conditions as to the time within which any particular action specified in directions under this section is to be taken.
- (12) Where the Tribunal give directions falling within subsection (11), they may also make provision in the order dispensing with the need to comply with such procedural requirements imposed by or under this Part as they may specify in the order.
- (13) If the scheme or proposed scheme relates to an area in Wales, the Tribunal may not make any order which has the effect of—
- (a) giving approval under section 126 as it applies by virtue of section 131D, or
  - (b) dispensing with the need for any such approval,
- but this is without prejudice to the temporary provision that may be made in directions falling within subsection (11)(c).
- (14) The appropriate national authority may make regulations with respect to the procedure to be followed in relation to a scheme in cases where the Tribunal decide that the proposal for continuation under section 131A was not an exempt continuation proposal.”

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**Commencement Information**

**I6** S. 35 partly in force; s. 35 in force at Royal Assent for specified purposes, see s. 134(1)(c)

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VALID FROM 11/01/2010

### 36 Appeals where proposed continuation considered non-exempt

After section 131E of the TA 2000 insert—

#### “131F Appeals where proposed continuation considered non-exempt

- (1) This section applies where an authority or authorities—
  - (a) propose that a quality contracts scheme for an area in England should continue in operation (with or without modifications) under section 131A,
  - (b) decide that the proposal is not an exempt continuation proposal, and
  - (c) acting on the basis of that decision, decide that the scheme should so continue in operation.
- (2) Any person falling within subsection (3) may appeal to the Transport Tribunal against the decision of the authority or authorities that the scheme should continue in operation.
- (3) The persons are—
  - (a) any person who was consulted under section 125(3) (as it applies by virtue of section 131A in a case where the proposal is not an exempt continuation proposal),
  - (b) any person who was not so consulted, but who, in the opinion of the QCS board under section 126D(1)(b), ought to have been so consulted.
- (4) Sections 127A(4) to (7) and 127B apply in relation to an appeal under subsection (2) as they apply in relation to an appeal under subsection (2) of section 127A, but with—
  - (a) the modifications in subsection (5), and
  - (b) such further or different modifications or exclusions as may be prescribed under section 133.
- (5) The modifications are—
  - (a) any reference to the scheme is to be read as a reference to the scheme as it continues in operation,
  - (b) any reference to the scheme as made is to be read as a reference to the scheme as it continues in operation,
  - (c) any reference to the proposed scheme is to be read as a reference to the scheme as proposed to continue in operation,
  - (d) any reference to any conditions set out in any paragraphs of section 124(1) or (as the case may be) of section 124(1A) being met is to be read as a reference to those conditions being met by the scheme as proposed to continue in operation (with any proposed modifications),
  - (e) any reference to section 125 or any provision of that section is to be read as a reference to that section or provision as it applies by

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virtue of section 131A in a case where the proposal is not an exempt continuation proposal.”.

### *Variation or revocation of quality contracts schemes*

VALID FROM 11/01/2010

#### **37 Variation or revocation of scheme**

- (1) Section 132 of the TA 2000 (variation or revocation of scheme) is amended as follows.
- (2) In subsection (2) (which refers to the conditions in certain provisions of section 124) for “subsection (1)(a) and (b)” substitute “ subsection (1)(a) to (e) ”.
- (3) In subsection (4) (grounds for revocation) for “or” at the end of paragraph (a) substitute—
  - “(aa) if they consider that those conditions would no longer be met with respect to it if they were to act in accordance with a direction given by the Transport Tribunal under this Part, or”.
- (4) In subsection (4A) (which defines the “relevant conditions” according to whether the scheme has been varied or not)—
  - (a) in paragraph (a), before “varied” insert “ continued in operation under section 131A or ”,
  - (b) also in paragraph (a), for “124(1)(a) and (b)” substitute “ 124(1)(a) to (e) ”,
  - (c) in paragraph (b), before “varied” insert “ continued in operation under section 131A or ”,
  - (d) in paragraph (c), before “varied”, in the first place where it occurs, insert “ continued in operation under section 131A or ”,
  - (e) also in paragraph (c), before “varied”, in the second place where it occurs, insert “ continued in operation or ”.
- (5) For subsection (5) (procedure for varying or revoking a scheme etc) substitute—
  - “(5) The variation or revocation of a scheme under subsection (1) or (4) is subject to the provisions of—
    - (a) subsection (6) (revocation: areas in England),
    - (b) subsection (7) (non-exempt variation: areas in England),
    - (c) subsection (8) (exempt variation: areas in England), or
    - (d) subsection (9) (areas in Wales),except to the extent that section 132B (exemption for specific variations directed by Transport Tribunal on appeal) otherwise provides.
  - (6) The revocation of a scheme for an area in England is subject to the following requirements—
    - (a) before deciding to revoke the scheme, the authority or authorities must consult the persons mentioned in section 125(3) and each relevant traffic commissioner,



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(b) as soon as reasonably practicable after deciding to revoke the scheme, the authority or authorities must give notice of the decision to each relevant traffic commissioner and must publish the notice in at least one newspaper circulating in the area to which the scheme relates,

(c) the notice must state that the decision has been taken and specify the date on which the revocation is to take effect,

except to the extent that those requirements are modified or excluded by regulations made by the Secretary of State under section 133.

For the purposes of this subsection “relevant traffic commissioner” means the traffic commissioner for any traffic area which consists of or includes the whole or any part of the area to which the scheme relates.

(7) The non-exempt variation of a scheme for an area in England is subject to the same procedure as the making of the scheme, except to the extent that that procedure is modified or excluded by regulations made by the Secretary of State under section 133.

(8) The exempt variation of a scheme for an area in England is subject to the same procedure as the making of a scheme, except to the extent that that procedure is modified or excluded by regulations made by the Secretary of State under section 133, but for the purposes of this subsection—

(a) sections 124(2)(c) and (2A), 126A to 126E and 127(1)(a) and (1A) (the QCS board provisions) do not apply;

(b) there is no requirement to give notice to the senior traffic commissioner under section 125(1)(d);

(c) the authority or authorities must consult any traffic commissioner falling within section 125(3)(e) (which accordingly has effect for this purpose with the omission of the words “if the proposed scheme relates to an area in Wales,”);

(d) sections 127A and 127B (appeals to the Transport Tribunal) do not apply;

(e) section 132A (appeals where proposed variation considered exempt) has effect in those cases for which it makes provision.

(9) The variation or revocation of a scheme for an area in Wales—

(a) requires the approval of the Welsh Ministers, except in the case of a variation which is an exempt variation, and

(b) is subject to the same procedure as the making of the scheme, except to the extent that that procedure is modified or excluded by regulations made by the Welsh Ministers under section 133.

(10) Section 130 (tendering) applies to a varied scheme (whether or not the variation is an exempt variation) but subject to regulations made by the appropriate national authority under section 133(3).

(11) A variation of a scheme is an exempt variation for the purposes of this section if the variation is—

(a) a reduction in the area to which the scheme relates,

(b) a reduction in the descriptions of services which are to be provided under quality contracts, or

(c) the provision of new exclusions from the scheme,

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and a “non-exempt variation” is any other variation of a scheme.”.

- (6) In consequence of the amendments made by subsection (5), renumber subsection (6) (regulations about revoking schemes before they come into operation) as subsection (12).

### **38 Appeals where proposed variation considered exempt**

After section 132 of the TA 2000 insert—

#### **“132A Appeals where proposed variation considered exempt**

- (1) This section applies where an authority or authorities who propose to vary a quality contracts scheme under section 132—
- (a) decide that the proposal is an exempt variation for the purposes of that section, and
  - (b) acting on the basis of that decision, decide to vary the scheme under that section.
- (2) Any person falling within subsection (3) may appeal to the Transport Tribunal against—
- (a) the decision of the authority or authorities that the variation is an exempt variation for the purposes of section 132, or
  - (b) the decision of the authority or authorities as to the variation of the scheme under that section.
- (3) The persons are—
- (a) any person who was consulted under section 125(3) (as it applies by virtue of subsection (8) or, as the case may be, (9)(b) of section 132 in a case where the variation is an exempt variation for the purposes of section 132),
  - (b) any person who was not so consulted, but who, in the opinion of the Transport Tribunal, ought to have been so consulted.
- (4) An appeal under this section may be—
- (a) on a point of law, or
  - (b) on a question of fact.
- (5) On an appeal under this section the Transport Tribunal shall have power—
- (a) to make such order as they think fit, or
  - (b) to remit any matter (with or without directions) to the authority or authorities for their consideration or determination or for such other purposes as the Tribunal may direct.
- (6) The powers of the Tribunal on an appeal under this section include power to do any one or more of the following—
- (a) dismiss the appeal in whole or in part,
  - (b) remit the matter to the authority or authorities with one or more directions under subsection (7),

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- (c) direct the authority or authorities to vary the scheme, to the extent of the variation made by the authority or authorities, in such manner as the Tribunal may specify in the direction (but see subsection (8)),
  - (d) quash the whole or any part of the decision of the authority or authorities.
- (7) A direction under this subsection is a direction for the authority or authorities to do each of the following—
  - (a) consider or reconsider such matters as may be specified in the direction,
  - (b) as respects those matters, consult or further consult the persons mentioned in section 125(3) (as it applies by virtue of subsection (8) or, as the case may be, (9)(b) of section 132 in a case where the variation is an exempt variation for the purposes of section 132),
  - (c) make such variations of the scheme as may in consequence appear appropriate to the authority or authorities.
- (8) The Tribunal may give a direction under this section to vary a scheme by reducing the area to which the scheme relates only if they are of the opinion that the conditions in section 132(3) are met.
- (9) If, on an appeal under paragraph (a) or (b) of subsection (2), the Tribunal decide that the variation was not an exempt variation for the purposes of section 132—
  - (a) they must allow the appeal to that extent,
  - (b) they must remit the matter to the authority or authorities, with or without directions, and
  - (c) subsections (10) to (13) have effect.
- (10) The directions that the Tribunal may give under this section include—
  - (a) directions to take any action specified in the directions for the purpose of remedying any failure to comply with requirements of this Part that have effect where a proposed variation under section 132 is not an exempt variation,
  - (b) directions to make variations specified in the directions for the purpose of securing that the condition in paragraph (a), (b) or (c) of section 132(11) (meaning of “exempt variation”) is met in the case of the variation,
  - (c) directions authorising the scheme to continue in operation temporarily, with or without variations, for a period specified or described in the directions, but subject to compliance with conditions as to the time within which any particular action specified in directions under this section is to be taken.
- (11) Where the Tribunal give directions falling within subsection (10), they may also make provision in the order dispensing with the need to comply with such procedural requirements imposed by or under this Part as they may specify in the order.
- (12) If the scheme or proposed scheme relates to an area in Wales, the Tribunal may not make any order which has the effect of—
  - (a) giving approval under section 126 as it applies by virtue of section 132, or
  - (b) dispensing with the need for any such approval,

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but this is without prejudice to the temporary provision that may be made in directions falling within subsection (10)(c).

- (13) The appropriate national authority may make regulations with respect to the procedure to be followed in cases where the Tribunal decide that the variation or proposed variation was not an exempt variation for the purposes of section 132.”.

#### Commencement Information

I7 S. 38 partly in force; s. 38 in force at Royal Assent for specified purposes, see s. 134(1)(c)

VALID FROM 11/01/2010

### 39 Exemption from s.132 for specific variations directed by Transport Tribunal

After section 132A of the TA 2000 insert—

#### “132B Exemption from s.132 for specific variations directed by Tribunal

- (1) This section applies in relation to any of the following appeals—
- (a) an appeal under section 127A against a decision to make a scheme,
  - (b) an appeal under section 131E(2)(a) against a decision that a proposal was an exempt continuation proposal,
  - (c) an appeal under section 131E(2)(b) against a decision that a scheme should continue in operation,
  - (d) an appeal under section 131F(2) against a decision that a scheme should continue in operation,
  - (e) an appeal by virtue of section 132 against a decision to vary a scheme,
  - (f) an appeal under section 132A(2)(a) against a decision that a variation was an exempt variation for the purposes of section 132,
  - (g) an appeal under section 132A(2)(b) against a decision as to the variation of a scheme under section 132.
- (2) Where—
- (a) any such appeal is made to the Transport Tribunal, and
  - (b) on that appeal, the Tribunal direct the authority or authorities to vary the scheme in the manner specified by the Tribunal in the direction,
- nothing in section 132(5) to (9) (procedure for variation of scheme) applies in relation to the varying of the scheme in the manner specified in the direction, unless the Tribunal otherwise direct.
- (3) Subsection (2) is without prejudice to any right of appeal against the decision of the Transport Tribunal.”.

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*Quality contracts schemes: miscellaneous and supplementary provisions*

VALID FROM 11/01/2010

**40 Power of authorities to provide services in exceptional circumstances**

(1) After section 132B of the TA 2000 insert—

**“132C Power of authorities to provide services in exceptional circumstances**

- (1) This section applies where a person who has agreed to provide a service (“the old service”) in accordance with a quality contract ceases to do so before the end of the period for which the contract was intended to have effect.
- (2) The authority, or any one of the authorities, who entered into the quality contract may, in accordance with subsections (4) to (8) and section 132D, provide a local service (an “interim service”) in place of the old service or any part of it.
- (3) Subsection (2) has effect notwithstanding any prohibition, restriction or limitation contained in any other enactment on the power of the authority to provide local services.
- (4) An authority who provide an interim service of any description must hold a PSV operator's licence to which no condition is attached under section 26 of the Transport Act 1985 (power of traffic commissioner to attach conditions to licence) prohibiting the authority from using vehicles under the licence to provide services of that description.
- (5) Subsection (6) applies if—
  - (a) an authority provide an interim service in place of an old service or any part of an old service, and
  - (b) the authority or authorities who entered into the quality contract for the provision of the old service propose to enter into a quality contract for the provision of a replacement service in place of that service or (as the case may be) that part.
- (6) The authority, or the authorities acting jointly, must invite tenders (in accordance with section 130) for the provision of the replacement service—
  - (a) as soon as reasonably practicable after the authority providing the interim service begin to do so, and
  - (b) in any event no later than three months after the date on which provision of the old service ceased.
- (7) But subsection (6) does not apply if the authority, or the authorities acting jointly, decide to secure the provision of the replacement service under section 131 (circumstances in which quality contracts may be entered into without inviting tenders).
- (8) The particulars of an interim service, or of a replacement service, need not be identical to the particulars of the old service, or that part of the old service, which it replaces.

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(9) In this section—

“enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978);

“interim service” has the meaning given by subsection (2);

“the old service” has the meaning given by subsection (1);

“replacement service” means a local service provided under a quality contract in place of an old service or any part of an old service.

### **132D Period for which interim service may be provided**

- (1) This section applies for the purpose of determining the period for which an authority may provide an interim service which is provided in place of—
  - (a) an old service (“the relevant service”), or
  - (b) part of an old service (“the relevant part”).
- (2) If the authority do not, within the period of three months beginning with the date on which provision of the relevant service ceased,—
  - (a) enter into a quality contract to provide a replacement service in place of the relevant service or (as the case may be) the relevant part, or
  - (b) issue an invitation to tender in pursuance of section 132C(6),the authority must not provide the interim service after the end of that period.
- (3) If the authority enter into a quality contract to provide such a replacement service within the period mentioned in subsection (2), the authority must not provide the interim service after the earlier of the following dates—
  - (a) the date on which the replacement service is first provided;
  - (b) the date falling nine months after the date on which the interim service is first provided.
- (4) If the authority issue invitations to tender in pursuance of section 132C(6) within the period mentioned in subsection (2) (but do not enter into a quality contract to provide such a replacement service within that period), the authority must not provide the interim service after the earlier of the following dates—
  - (a) the date on which a replacement service is first provided in place of the relevant service or (as the case may be) the relevant part;
  - (b) the date determined in accordance with subsection (5).
- (5) The date is the later of—
  - (a) the date falling nine months after the date on which the interim service is first provided;
  - (b) such date, not later than three months after the date mentioned in paragraph (a), as may be determined by the traffic commissioner on the application of the authority.
- (6) The traffic commissioner may determine a date under subsection (5)(b) only if satisfied that there is a realistic prospect that, if the determination is made, a replacement service will be provided in place of the relevant service or (as the case may be) the relevant part on or before that date.

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- (7) An application under paragraph (b) of subsection (5) must be made—
- (a) to the traffic commissioner for the traffic area in which the interim service is provided (or, if the service is provided in more than one such area, to the traffic commissioner for any of those areas), and
  - (b) not later than one month before the date mentioned in paragraph (a) of that subsection.
- (8) The authority must not make more than one application under subsection (5) (b) in respect of any interim service.
- (9) In this section—
- “interim service” and “replacement service” have the meaning given in section 132C;
- “the relevant service” and “the relevant part” have the meaning given in subsection (1);
- and, in any case where the authority entered into the quality contract for the provision of the relevant service jointly with one or more other authorities, references in this section to the authority entering into a quality contract for a replacement service, or issuing invitations to tender for such contracts, are references to those authorities acting jointly.”
- (2) In section 162(4) of the TA 2000 (provisions where references to Passenger Transport Authorities are to be read as references to Passenger Transport Executives) at the appropriate place insert—
- “section 132C,  
section 132D,”.
- (3) In section 66(1) of the TA 1985 (exclusion of powers of certain councils to run bus undertakings) after “subsection (2) below” insert “ and to section 132C of the Transport Act 2000 ”.

#### 41 Regulations about schemes

- (1) Section 133 of the TA 2000 (regulations about schemes) is amended as follows.
- (2) In subsection (1)(a) (regulations with respect to making, varying or revoking schemes) after “making” insert “ continuing, ”.
- (3) In subsection (1)(b) (approvals of schemes) after “schemes” insert “ for areas in Wales ”.
- (4) After subsection (1)(b) insert—
- (bb) the procedure to be followed by local transport authorities for areas in England when discharging functions that relate to a QCS board,
  - (bc) the procedure to be followed by QCS boards when discharging functions relating to proposed schemes for areas in England,”.
- (5) In subsection (2) (particular matters for which regulations may provide)—
- (a) in paragraph (a) (proposed variations or revocation of schemes) before “variations” insert “ continuations, ”;



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- (b) in paragraph (e) (applications for approval of proposals) after “proposals” insert “ for areas in Wales ”;
  - (c) after paragraph (e) (form and manner of applications for approval) insert—
    - “(ee) the procedure for determining such applications,
    - (ef) the form and manner of requests under section 126C(4) relating to proposed schemes for areas in England,
    - (eg) the form and manner in which copies of proposed schemes for such areas are to be sent to a QCS board under section 126C(5),
    - (eh) the giving of notice, and the preparation and publication of reports, by QCS boards under section 126D(5),
    - (ei) the form and manner of responses by local transport authorities to such reports,”;
  - (d) in paragraph (f) (form of schemes or variations) after “schemes” insert “ , continuations ”;
  - (e) in paragraph (g) (notice of schemes or of their variation or revocation) before “variation” insert “ continuation, ”.
- (6) After subsection (2) insert—
- “(3) The appropriate national authority may also make regulations modifying or excluding the application of provisions of this Part, so far as relating to quality contracts schemes, in cases where a local transport authority, or two or more local transport authorities acting jointly, do any of the following—
    - (a) by virtue of section 126C(6), send to a QCS board a further request under section 126C(4) and modified proposals under section 126C(5),
    - (b) propose or decide that a scheme should continue in operation (with or without modification) under section 131A,
    - (c) propose or decide to vary or revoke a scheme under section 132.
  - (4) Regulations made by virtue of subsection (3) must not exclude any requirement for the authority or authorities—
    - (a) under section 126, to obtain the approval of the Welsh Ministers,
    - (b) under section 127(1A), to publish their response to the report of the QCS board.”.

#### Commencement Information

**18** S. 41 partly in force; s. 41(6) in force at Royal Assent for specified purposes, see s. 134(1)(c)

VALID FROM 11/01/2010

#### 42 Power to make transitional provision about schemes

- (1) Section 134 of the TA 2000 (transitional provision about schemes) is amended as follows.
- (2) In subsection (1)(a) (transitional provision about the coming into operation of quality contracts schemes) after “quality contracts schemes” insert “ or of provisions of such schemes ”.

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(3) In subsection (1)(b) (transitional provision in connection with variation of schemes) before “variation” insert “ continuation in operation or ”.

(4) In subsection (2) (application or disapplication, with or without modifications, of sections 6 to 9 of the TA 1985) in paragraph (a), after “(registration of local services)” insert “ , or of sections 89 to 92 of that Act (obligation to invite tenders etc), ”.

(5) At the end of the section insert—

“(3) Any regulations made by virtue of paragraph (a) of subsection (1) are not to have effect in the case of any quality contracts scheme as respects any time before the making of the scheme.”.

VALID FROM 11/01/2010

#### **43 Guidance about schemes**

After section 134 of the TA 2000 insert—

##### **“134A Guidance about schemes**

- (1) The appropriate national authority may issue guidance concerning the performance by local transport authorities of their functions under this Part in relation to quality contracts schemes.
- (2) Those authorities must have regard to any such guidance.”.

#### **44 Quality contracts: application of TUPE**

(1) After section 134A of the TA 2000 insert—

##### **“134B Quality contracts: application of TUPE**

- (1) Subsection (3) applies to a situation in which—
  - (a) on the coming into force of a quality contract, local services cease to be provided by a person (the “former operator”) in the area to which the relevant quality contracts scheme, or (in the case of a scheme which provides for different provisions to come into operation on different dates) the relevant provision of the scheme, relates, in accordance with section 129(1)(b), and
  - (b) at the same time, a person (the “new operator”) begins to provide local services in that area under that quality contract.
- (2) Subsection (3) also applies to a situation in which—
  - (a) local services which, on the coming into force of a quality contract, a person (the “former operator”) would be required by virtue of section 129(1)(b) to cease providing in the area mentioned in subsection (1)(a) of this section, cease to be provided by the former operator before the coming into force of that quality contract, and

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- (b) at the same time, a person (the “new operator”) begins to provide local services in that area under an agreement which the authority or authorities who made the relevant quality contracts scheme entered into by reason of the cessation of the local services referred to in paragraph (a).
- (3) Any situation to which this subsection applies is to be treated as a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”) (whether or not TUPE would apply apart from this subsection).
- (4) For the purposes of TUPE, the organised grouping of employees that is subject to the relevant transfer consists of those employees of the former operator whose employment is principally connected with the provision of the local services referred to in subsection (1)(a) or (as the case may be) the local services referred to in subsection (2)(a).
- (5) Any situation which by virtue of this section is treated as a relevant transfer for the purposes of TUPE is also to be treated as a relevant transfer within the meaning of TUPE for the purposes of sections 257 and 258 of the Pensions Act 2004 and any regulations made under section 258 of that Act.
- (6) The Secretary of State may make regulations supplementing the provision made by this section.
- (7) The provision that may be made by regulations under subsection (6) includes—
  - (a) provision for determining, for the purposes of subsection (4), whether a person's employment is principally connected with the provision of any particular local services (including provision for or in connection with the appointment of a person to make such determination);
  - (b) provision for determining, in the case of any particular organised grouping of employees, the particular new operator who is to be the transferee for the purposes of TUPE (including provision for or in connection with the appointment of a person to make such determination);
  - (c) provision requiring any person operating local services in the area to which a quality contracts scheme relates to provide the authority or authorities who made the scheme with such information as may be prescribed, at such time as may be prescribed, about such of that person's employees as would fall within subsection (4) if the person ceased to provide those services in the circumstances described in subsection (1)(a);
  - (d) provision requiring the authority or authorities who made a quality contracts scheme to provide all persons operating local services in the area to which the scheme relates with such information as may be prescribed, at such time as may be prescribed, so as to enable such persons to comply with any requirement imposed by virtue of paragraph (c) of this subsection;
  - (e) provision requiring the authority or authorities who made a quality contracts scheme to ensure that any quality contract entered into with a person under the scheme, or any other agreement made with a person

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for the provision of local services in the area to which the scheme relates, is made on terms—

- (i) that require the person, in the event of there being any transferring employees, to secure pension protection for every transferring employee, or every transferring employee of a prescribed description, who as an employee of the former operator had rights to acquire pension benefits, and
  - (ii) that, so far as relating to the securing of pension protection for a transferring employee, are enforceable by the employee.
- (8) For the purposes of this section—
- (a) “transferring employee” means an employee of a former operator whose contract of employment becomes, either by virtue of TUPE or by virtue of this section, a contract of employment with a new operator;
  - (b) “pension protection” is secured for a transferring employee if after the change of employer referred to in paragraph (a)—
    - (i) the employee has, as an employee of the new operator, rights to acquire pension benefits, and
    - (ii) those rights are of such description as is prescribed by regulations.
- (9) The Secretary of State must exercise the power conferred by this section to make regulations containing provision falling within subsection (7)(e) so as to ensure—
- (a) that pension protection is required to be secured for every transferring original employee who, as an employee of the original operator, had rights to acquire pension benefits, and
  - (b) that the rights to acquire pension benefits which a transferring original employee has as an employee of the new operator by virtue of paragraph (a) are rights which—
    - (i) are the same as the rights the transferring original employee had as an employee of the original operator, or
    - (ii) under provision made by regulations, count as being broadly comparable to, or better than, those rights.
- (10) For the purposes of subsection (9)—
- “transferring original employee” means a transferring employee—
- (a) who immediately before the relevant date was employed by a person (the “original operator”) providing local services in the area to which the relevant quality contracts scheme relates, and
  - (b) whose contract of employment—
    - (i) was, from that date until the change of employer referred to in subsection (8)(a), a contract of employment with the original operator, or
    - (ii) on each occasion when the employee was subject to a relevant transfer became, either by virtue of TUPE or by virtue of this section, a contract of employment with a person providing local services in the area referred to in paragraph (a);
- “relevant date”, in relation to a quality contracts scheme, means—

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- (a) the date on which the scheme was made, or
- (b) where—
  - (i) the local services being provided by the original operator were not subject to the scheme when it was made, and
  - (ii) as a result of either the variation of the scheme, or the continuation of the scheme with modifications, those services became subject to the scheme,

the date on which that variation, or (as the case may be) the decision to continue the scheme with those modifications, was made;

“relevant transfer” means anything that is, or is to be treated as, a relevant transfer for the purposes of TUPE.

- (11) A person is guilty of an offence under this subsection if—
  - (a) the person provides information in accordance with a requirement imposed by virtue of subsection (7)(c),
  - (b) the information is false or misleading in a material particular, and
  - (c) the person knows that it is or is reckless as to whether it is.

- (12) A person who is guilty of an offence under subsection (11) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.”.

- (2) In section 26(1) of the TA 1985 (conditions attached to PSV operator's licence) after paragraph (b) insert—

“(bza) the operator has failed to comply with a requirement imposed by virtue of section 134B(7)(c) of the Transport Act 2000; or”.

- (3) In section 155(1) of the TA 2000 (penalties) for “or” at the end of paragraph (b) substitute—

“(ba) failed to comply with a requirement imposed by virtue of section 134B(7)(c) of this Act, or”.

#### Commencement Information

**19** S. 44 partly in force; s. 44 in force at Royal Assent for specified purposes, see s. 134(1)(c)

VALID FROM 11/01/2010

#### **45 Power to make traffic regulation orders**

- (1) Section 1 of the Road Traffic Regulation Act 1984 (c. 27) (traffic regulation orders outside Greater London) is amended as follows.

- (2) In subsection (3A) (orders may be made by local traffic authority for the purposes of quality partnership schemes) for “facilities pursuant to a quality partnership scheme under Part II of the Transport Act 2000” substitute “relevant bus scheme facilities”.

- (3) After subsection (3A) insert—

“(3B) In subsection (3A) “relevant bus scheme facilities” means—

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- (a) facilities provided pursuant to a quality partnership scheme under Part 2 of the Transport Act 2000;
- (b) facilities provided pursuant to a quality contract within the meaning of that Part (see section 124(4) and (5) of that Act) or otherwise in connection with a quality contracts scheme under that Part.”.

### *Extension of the competition test*

## **46 Competition scrutiny of functions and agreements relating to buses**

- (1) For section 153 of the TA 2000 (competition test for exercise of bus functions (see Schedule 10 to that Act)) substitute—

### **“153 Competition test: functions and agreements relating to buses**

- (1) Schedule 10 contains provision applying competition tests in relation to—
- (a) the exercise of functions relating to quality partnership schemes, ticketing schemes and subsidised local services,
  - (b) voluntary partnership agreements and certain other agreements, decisions and practices relating to bus services.
- (2) A voluntary partnership agreement is any voluntary agreement under which—
- (a) a local transport authority, or two or more local transport authorities, undertake to provide particular facilities, or to do anything else for the purpose of bringing benefits to persons using local services, within the whole or part of their area, or combined area, and
  - (b) one or more operators of local services undertake to provide services of a particular standard.
- (3) In subsection (2)—
- “facilities” means—
- (a) facilities provided at specific locations along routes served, or proposed to be served, by local services within the area to which the agreement relates, or
  - (b) facilities which are ancillary to such facilities;
- “standard”, in the case of any services, includes—
- (a) any requirements which the vehicles being used to provide the services must meet,
  - (b) any requirements as to frequency or timing of the services,
  - (c) any requirements as to the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions, on services to which the agreement applies;
- “voluntary agreement” means an agreement made otherwise than under sections 114 to 123 (quality partnership schemes).”.

- (2) In section 162 of that Act (interpretation of Part 2) after subsection (4) insert—

“(4A) Where a reference to an authority in any of the following provisions is to an Integrated Transport Authority, it is to be construed as including a

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reference to the Passenger Transport Executive for the integrated transport area concerned—

section 153(2)(a),

in Schedule 10, paragraph 17(5)(b) and (8).”.

- (3) Schedule 10 to the TA 2000 (competition test for exercise of bus functions) is amended in accordance with Schedule 2.

#### Commencement Information

**I10** S. 46 partly in force; s. 46(3) in force at Royal Assent for specified purposes, see s. 134(1)(c)

## PART 4

### GENERAL PROVISIONS RELATING TO PASSENGER TRANSPORT

#### *Detention of certain PSVs*

#### **47 Detention of certain PSVs used without PSV operators' licences**

- (1) In the PPVA 1981, after section 12 (PSV operators' licences) insert—

##### **“12A Detention of certain PSVs used without PSV operators' licences**

Schedule 2A (which relates to the detention, removal and disposal of PSVs which are adapted to carry more than 8 passengers and in respect of which it appears that section 12(1) is contravened) shall have effect.”.

- (2) After Schedule 2 to that Act insert, as Schedule 2A, the Schedule set out in Schedule 3 to this Act.

#### Commencement Information

**I11** S. 47 partly in force; s. 47 in force at Royal Assent for specified purposes, see s. 134(1)(c)

#### *Registration of local services*

#### **48 Determination of applications for registration where restrictions in force**

- (1) Section 6 of the TA 1985 (registration of local services) is amended as follows.

- (2) After subsection (2) (conditions for providing service) insert—

“(2A) Where—

- (a) any registration restrictions imposed under section 114(3A) of the Transport Act 2000 (quality partnership schemes) are in force, and  
(b) an application for registration is made in respect of a service in relation to which those restrictions have effect,

section 6A of this Act has effect in relation to the application.”.



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(3) After section 6 of the TA 1985 insert—

**“6A Applications for registration etc where restrictions are in force**

- (1) This section applies in any case where—
  - (a) any registration restrictions imposed under section 114(3A) of the Transport Act 2000 are in force in the case of a quality partnership scheme (“the scheme”);
  - (b) an application for registration, or for variation or cancellation of registration, is made under section 6 of this Act to a traffic commissioner in respect of a local service in relation to which those restrictions have effect; and
  - (c) the application is one which would fall to be accepted by the traffic commissioner, apart from this section.
- (2) In any such case the traffic commissioner, before deciding whether or not to accept the application, must give to—
  - (a) each relevant authority, and
  - (b) each relevant operator,a notice complying with subsection (3) below.
- (3) The notice must—
  - (a) identify the application and state that it has been made;
  - (b) provide prescribed particulars of the application;
  - (c) inform the persons to whom it is required to be sent of the right of each of them to make relevant representations to the traffic commissioner about the application.
- (4) If no relevant representations are made, the application is to be accepted.
- (5) If any relevant representations are made by a relevant authority or a relevant operator, the traffic commissioner must decide whether the effect of accepting the application would be detrimental to the provision of local services under the scheme.
- (6) The traffic commissioner may decide that question only after—
  - (a) considering those representations;
  - (b) taking account of any other relevant applications and any relevant representations made in relation to those applications;
  - (c) holding such inquiries under section 54 of the 1981 Act as the traffic commissioner may think fit; and
  - (d) applying the registration criteria.
- (7) If the traffic commissioner decides that the effect of accepting the application would not be detrimental to the provision of such services, the application is to be accepted.
- (8) If subsection (7) above does not apply, the traffic commissioner may do any one or more of the following—
  - (a) refuse to accept the application;
  - (b) require the applicant to amend the application in such respects as the traffic commissioner may require before submitting it again;

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- (c) if the applicant has not given a written undertaking under section 118(4) of the Transport Act 2000 in relation to the scheme, require the applicant to give such an undertaking before the application may be accepted.
- (9) An appeal against any decision of a traffic commissioner under this section may be made to the Transport Tribunal by any of the following persons—
- (a) the person who made the application;
  - (b) any relevant authority that made relevant representations against the application;
  - (c) any relevant operator who made relevant representations against the application.

As respects appeals to the Transport Tribunal, see Schedule 4 to this Act.

- (10) An appeal lies (in accordance with paragraph 14 of Schedule 4 to this Act) at the instance of any of the persons mentioned in the paragraphs of subsection (9) above from a decision of the Transport Tribunal on an appeal under that subsection.
- (11) Regulations may be made for the purposes of carrying this section into effect; and the provision that may be made by any such regulations includes provision—
- (a) as to the procedure for giving notice under subsection (2) above;
  - (b) prescribing the particulars of the application that are to be provided in such a notice;
  - (c) as to the procedure for making relevant representations;
  - (d) as to the procedure to be followed in determining the application.
- (12) In this section—
- “quality partnership scheme” means a scheme under section 114 of the Transport Act 2000;
  - “registration criteria” means the criteria specified in the scheme by virtue of section 114(3C) of the Transport Act 2000;
  - “relevant application” means any application under section 6 of this Act—
    - (a) which is made in respect of a local service in relation to which the registration restrictions have effect, and
    - (b) which (whenever made) is awaiting the decision of the traffic commissioner;
  - “relevant authority” means the authority, or any of the authorities, that made the scheme;
  - “relevant operator” means—
    - (a) any operator of local services who has given an undertaking under section 118(4) of the Transport Act 2000 in respect of the scheme;
    - (b) any other operator of local services which might be affected if the application were to be accepted;
  - “relevant representations” means representations that the effect of accepting the application would be detrimental to the provision of services under the scheme, having regard to the registration criteria.”.

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### Commencement Information

**I12** S. 48 partly in force; s. 48 in force at Royal Assent for specified purposes, see s. 134(1)(c)

## 49 Applications for registration where quality contracts scheme in force

- (1) Section 6 of the TA 1985 (registration of local services) is amended as follows.
- (2) After subsection (2A) (which is inserted by section 48) insert—
  - “(2B) Where—
    - (a) a quality contracts scheme under section 124 of the Transport Act 2000 is in force,
    - (b) an operator proposes to provide a local service which is to have one or more stopping places within the area to which the scheme relates,
    - (c) the proposed service is not excluded from the scheme by virtue of section 127(4) of the Transport Act 2000, and
    - (d) the operator does not propose to provide the service under a quality contract by virtue of the scheme,
 section 6B of this Act has effect with respect to registration of that service.”.
- (3) After subsection (7) (variation or revocation of registration) insert—
  - “(7A) Where—
    - (a) a quality contracts scheme under section 124 of the Transport Act 2000 is in force,
    - (b) the operator of a local service registered under this section proposes to vary the registration,
    - (c) the service, as proposed to be varied, is to have one or more stopping places within the area to which the scheme relates,
    - (d) the service, as proposed to be varied, is not excluded from the scheme by virtue of section 127(4) of the Transport Act 2000, and
    - (e) the operator does not propose to provide the service, as proposed to be varied, under a quality contract by virtue of the scheme,
 section 6B of this Act has effect with respect to the variation of the registration.”.
- (4) In subsection (8) (time when variation etc becomes effective) after “Subject to regulations under this section” insert “ and, in the case of variation, to section 6B of this Act, ”.
- (5) After section 6A of the TA 1985 (which is inserted by section 48) insert—

### “6B Applications for registration where quality contracts scheme in force

- (1) This section applies—
  - (a) by virtue of subsection (2B) of section 6 of this Act (“Case 1”), in relation to registration of the proposed local service mentioned in that subsection;

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- (b) by virtue of subsection (7A) of that section (“Case 2”), in relation to the proposed variation of the registration mentioned in that subsection.
- (2) Where this section applies, the operator may apply to a traffic commissioner—
- (a) in Case 1, for registration of the proposed service under section 6 of this Act, or
- (b) in Case 2, for variation of the registration under that section, notwithstanding anything in section 129(1)(a) of the Transport Act 2000 (sections 6 to 9 of this Act not to apply).
- (3) The traffic commissioner must not accept the application except in accordance with subsections (4) to (6) below.
- (4) On receipt of the application, the traffic commissioner must consult the authority or authorities who made the quality contracts scheme.
- (5) If, within the prescribed time, the traffic commissioner receives from the authority or authorities a clearance certificate in respect of the application, the traffic commissioner must—
- (a) in Case 1, register the service under section 6 of this Act, or
- (b) in Case 2, vary the registration under that section.
- (6) If the traffic commissioner does not receive such a certificate within that time, the application must be rejected.
- (7) In relation to Case 2, regulations may prescribe cases in which subsections (3) to (6) above do not apply.
- (8) In this section—
- “clearance certificate” means a certificate that the provision—
- (a) in Case 1, of the proposed local service, or
- (b) in Case 2, of the local service as proposed to be varied,
- will not have an adverse effect on local services provided under quality contracts in the area to which the quality contracts scheme relates;
- “prescribed” means prescribed in regulations;
- “the relevant authority or authorities” means the authority or authorities—
- (a) who last continued the quality contracts scheme in force under section 131A of the Transport Act 2000, or
- (b) if the scheme has not been so continued, who made it.”.

#### Commencement Information

**I13** S. 49 partly in force; s. 49 in force at Royal Assent for specified purposes, see s. 134(1)(c)

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VALID FROM 09/02/2009

### 50 Traffic regulation conditions for anticipated traffic problems

- (1) Section 7 of the TA 1985 (application of traffic regulation conditions to local services subject to registration under section 6 of that Act) is amended as follows.
- (2) In subsection (1) (traffic authority requesting traffic commissioner to exercise powers in relation to a particular traffic problem) after “particular traffic problem” insert “which has arisen or which the authority reasonably foresees is likely to arise”.
- (3) In subsection (4) (traffic commissioner to be satisfied that the conditions are required for certain purposes) for “are required” substitute “are, or are likely to be, required”.

VALID FROM 09/02/2009

### 51 Transport Tribunal to decide appeals against traffic regulation conditions

- (1) Section 9 of the TA 1985 (appeals against traffic regulation conditions) is amended as follows.
- (2) In subsection (1) (appeals are to the Secretary of State) for “the Secretary of State” substitute “the Transport Tribunal”.
- (3) Omit subsections (3) and (4).
- (4) For subsection (5) (further appeal) substitute—
  - “(5) An appeal lies (in accordance with paragraph 14 of Schedule 4 to this Act) at the instance of any of the persons mentioned in subsection (6) below from a decision of the Transport Tribunal on an appeal under this section.”.
- (5) In subsection (6)—
  - (a) for “the Secretary of State” substitute “the Transport Tribunal”;
  - (b) for “him” (in both places) substitute “the tribunal”.
- (6) Omit subsections (7) to (9).

VALID FROM 09/02/2009

### 52 Fees for registration of services

- (1) Section 126(1) of the TA 1985 (application of section 52 of the PPVA 1981, which relates to fees, to registration of local services etc) is amended as follows.
- (2) In paragraph (a) after “for the variation” insert “or cancellation”.
- (3) After paragraph (a) insert—
  - “(aa) the continuation in force of registrations under that section;”.

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### *Use of taxis and hire cars to provide local services*

VALID FROM 06/04/2009

#### **53 Use of private hire vehicles to provide local services**

- (1) Section 12 of the TA 1985 (use of taxis in providing local services) is amended as follows.
- (2) In subsection (1) (application by holder of taxi licence for special licence to provide local service by means of licensed taxis)—
  - (a) after “a taxi licence” insert “ or a private hire vehicle licence ”;
  - (b) in paragraph (b) after “licensed taxis” insert “ or licensed hire cars ”.
- (3) In subsection (5)—
  - (a) after “a taxi licence” insert “ or a private hire vehicle licence ”;
  - (b) for “the taxi licence of the vehicle in question” substitute “ the relevant licence for that vehicle ”.
- (4) In subsection (7) for “taxi licences” substitute “ relevant licences ”.
- (5) In subsection (8) after “a licensed taxi” insert “ or a licensed hire car ”.
- (6) In subsection (9) after “a licensed taxi” insert “ or a licensed hire car ”.
- (7) In subsection (10) for the words from “Such provisions” to “being so used;” substitute “ At any time when a licensed taxi or a licensed hire car is being so used the prescribed provisions of the taxi code or, as the case may be, the hire car code shall apply in relation to it; ”.
- (8) After subsection (10) insert—

“(10A) In subsections (9) and (10) “prescribed” means prescribed by the appropriate authority.”.
- (9) In consequence of the amendments made by this section, in the heading to section 12 after “taxis” there is inserted “ or hire cars ”.

#### **54 Application of certain provisions about taxis and hire cars to London**

- (1) Section 13 of the TA 1985 (provisions supplementary to sections 10 to 12) is amended as follows.
- (2) In subsection (1) (power to modify codes for purposes of sections 10 to 12)—
  - (a) for “The Secretary of State” substitute “ The appropriate authority ”;
  - (b) for “he” substitute “ it ”.
- (3) Subsection (3) (interpretation of terms used in sections 10 to 12) is amended as follows.
- (4) Before the definition of “licensed taxi” insert the following definition—

““the appropriate authority” means—

  - (a) in relation to—

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- (i) a taxi licensed under section 37 of the Town Police Clauses Act 1847 or any similar enactment which applies outside the London taxi area,
  - (ii) a licensed hire car licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976, or
  - (iii) a taxi or private hire car licensed under section 10 of the Civic Government (Scotland) Act 1982,
- the Secretary of State;
- (b) in relation to—
    - (i) a taxi licensed under section 6 of the Metropolitan Public Carriage Act 1869, or
    - (ii) a licensed hire car licensed under section 7 of the Private Hire Vehicles (London) Act 1998,
 Transport for London;”.
- (5) For the definition of “licensed hire car” substitute—
- ““licensed hire car” means—
- (a) in England and Wales—
    - (i) for the purposes of section 11 of this Act, a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976 or section 7 of the Private Hire Vehicles (London) Act 1998,
    - (ii) for the purposes of section 12 of this Act, a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976;
  - (b) in Scotland, a private hire car licensed under section 10 of the Civic Government (Scotland) Act 1982;”.
- (6) After the definition of “taxi licence” insert—
- ““relevant licence” means—
- (a) in relation to a licensed taxi, a taxi licence, and
  - (b) in relation to a licensed hire car, a private hire vehicle licence;
- “private hire vehicle licence” means—
- (a) in England and Wales, a licence under section 48 of the Local Government (Miscellaneous Provisions) Act 1976;
  - (b) in Scotland, a private hire car licence under section 10 of the Civic Government (Scotland) Act 1982.”.
- (7) In the definition of “hire car code”, after “used as mentioned in section 11” insert “or 12”.
- (8) After section 13 of the TA 1985 insert—

### **“13A Application of sections 10 to 13 to London**

- (1) Transport for London may by order provide that section 12 of this Act is to apply to vehicles licensed under section 7 of the Private Hire Vehicles (London) Act 1998 as it applies to vehicles licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976.



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- (2) An order under subsection (1) of this section may amend the definitions of “licensed hire car” and “private hire vehicle licence” in section 13 of this Act accordingly.
- (3) Transport for London must consult such representative organisations as it thinks fit before making—
  - (a) regulations under section 12(9) or (10) of this Act;
  - (b) an order under section 13(1) of this Act or subsection (1) of this section.
- (4) Any power of Transport for London to make—
  - (a) regulations under section 12(9) or (10) of this Act, or
  - (b) an order under section 13(1) of this Act,includes a power to vary or revoke any previous such regulations or order (as the case may be).
- (5) Subsection (4) applies notwithstanding that the previous regulations were made, or the previous order was made, by the Secretary of State by statutory instrument.
- (6) Transport for London must print and publish—
  - (a) any regulations made by it under section 12(9) or (10) of this Act;
  - (b) any order made by it under section 13(1) of this Act or subsection (1) of this section.
- (7) Transport for London may charge a fee for the sale of copies of any regulations, or any order, printed under subsection (6).”.

#### Commencement Information

**I14** S. 54 partly in force; s. 54(8) in force at Royal Assent for specified purposes, see s. 134(1)(c)

VALID FROM 26/01/2009

#### **55 Carrying of passengers in wheelchairs in vehicles providing local services**

- (1) Section 36 of the Disability Discrimination Act 1995 (c. 50) (carrying of passengers in wheelchairs) is amended as follows.
- (2) In subsection (1)(b) for “taxi” substitute “ vehicle ”.
- (3) After subsection (1) insert—

“(1A) This section also imposes duties on the driver of a designated vehicle other than a regulated taxi if—

  - (a) the designated vehicle is being used to provide a local service (within the meaning of section 2 of the Transport Act 1985), and
  - (b) a person falling within paragraph (a) or (b) of subsection (1) has indicated to the driver that he wishes to travel on the service.”.

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- (4) In each of subsections (2), (3) and (4) for “taxi” (wherever occurring) substitute “vehicle”.
- (5) In subsection (5) after “a regulated taxi” insert “or designated vehicle”.
- (6) In subsection (6)—
- (a) after “at the time of the alleged offence” insert—
    - “(a) in the case of a regulated taxi,”;
  - (b) after “it was required to conform,” insert—
    - “(b) in the case of a designated vehicle, the vehicle conformed to the accessibility requirements which applied to it,”;
  - (c) for the word “taxi” (in the last place where it appears) substitute “vehicle”.
- (7) After subsection (9) insert—
- “(10) The driver of a designated vehicle is exempt from the duties imposed by this section if—
- (a) a certificate of exemption issued to him under this section is in force; and
  - (b) he is carrying the certificate on the vehicle.
- (11) The driver of a designated vehicle who is exempt under subsection (10) must show the certificate, on request, to a person falling within paragraph (a) or (b) of subsection (1).”.
- (8) After subsection (11) insert—
- “(12) In this section—
- “designated vehicle” means a vehicle which appears on a list maintained under section 36A;
  - “licensing authority” has the meaning given by section 36A.”.

VALID FROM 26/01/2009

## **56 Carrying of passengers in wheelchairs: supplementary provisions**

- (1) The Disability Discrimination Act 1995 (c. 50) is amended as follows.
- (2) After section 36 insert—

### **“36A List of wheelchair-accessible vehicles providing local services**

- (1) A licensing authority may maintain a list of vehicles falling within subsection (2).
- (2) A vehicle falls within this subsection if—
  - (a) it is either a taxi or a private hire vehicle,
  - (b) it is being used or is to be used by the holder of a special licence under that licence, and
  - (c) it conforms to such accessibility requirements as the licensing authority thinks fit.

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- (3) “Accessibility requirements” are any requirements for the purpose of securing that it is possible for disabled persons in wheelchairs—
- (a) to get into and out of vehicles in safety, or to be conveyed in safety into and out of vehicles while remaining in their wheelchairs; and
  - (b) to be carried in vehicles in safety and reasonable comfort (whether or not they wish to remain in their wheelchairs).
- (4) The Secretary of State may issue guidance to licensing authorities as to—
- (a) the accessibility requirements which they should apply for the purposes of this section;
  - (b) any other aspect of their functions under or by virtue of this section.
- (5) A licensing authority which maintains a list under subsection (1) must have regard to any guidance issued under subsection (4).
- (6) In this section—
- “licensing authority”, in relation to any area, means the authority responsible for licensing taxis or, as the case may be, private hire vehicles in that area;
- “private hire vehicle” means—
- (a) a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976;
  - (b) a vehicle licensed under section 7 of the Private Hire Vehicles (London) Act 1998;
  - (c) a vehicle licensed under an equivalent provision of a local enactment;
  - (d) a private hire car licensed under section 10 of the Civic Government (Scotland) Act 1982;
- “special licence” has the meaning given by section 12 of the Transport Act 1985 (use of taxis in providing local services);
- “taxi” includes a taxi licensed under section 10 of the Civic Government (Scotland) Act 1982.”.
- (3) Section 38 (appeal against refusal of exemption certificate) is amended as follows.
- (4) In subsection (1) after “a magistrates' court” insert “ or, in Scotland, the sheriff court ”.
- (5) In subsection (2) for “this section” substitute “ subsection (1) ”.
- (6) At the end of the section insert—
- “(4) Any person who is aggrieved by the decision of a licensing authority to include a vehicle on a list maintained under section 36A may appeal to a magistrates' court or, in Scotland, the sheriff court before the end of the period of 28 days beginning with the date of the inclusion.
- (5) In this section “licensing authority” has the meaning given by section 36A.”.
- (7) In consequence of the amendments made by subsections (4) to (6), the heading to section 38 becomes “ Appeals ”.
- (8) In section 68(1) (interpretation), in the definition of “licensing authority”, for “section 37A” substitute “ sections 36, 36A, 37A and 38 ”.

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(9) In section 70 (commencement etc) after subsection (2) insert—

“(2A) The following provisions of this Act—

- (a) section 36 so far as it applies to designated vehicles,
- (b) section 36A, and
- (c) section 38 (which has already been brought in force in England and Wales by an order under subsection (3)) so far as it extends to Scotland,

come into force 2 months after the passing of the Local Transport Act 2008.”.

### *Vehicles used under permits*

VALID FROM 06/04/2009

#### **57 Permits in relation to use of vehicles by educational and other bodies**

- (1) Section 19 of the TA 1985 (permits in relation to the use of buses by educational and other bodies) is amended as follows.
- (2) In subsection (1) (definitions for sections 19 to 21) in the definition of “permit” for “a bus” substitute “ a public service vehicle ”.
- (3) In subsection (2) (requirements that must be met for use of a bus under a permit to be exempt from operator licensing)—
  - (a) for “a bus” substitute “ a public service vehicle ”;
  - (b) for “section 18(a)” substitute “ section 18(1)(a) ”;
  - (c) for “the bus” substitute “ the vehicle ”.
- (4) In subsection (3) (grant by designated body of permits relating to use of a small bus) for “a small bus” substitute “ a public service vehicle other than a large bus ”.
- (5) In subsection (4) (grant by traffic commissioner of permits relating to use of a small bus) for “a small bus” substitute “ a public service vehicle other than a large bus ”.
- (6) In subsection (7) (grant of permits by bodies designated by the Secretary of State) in paragraph (c)—
  - (a) after “may require the body to make returns” insert “ and keep records ”, and
  - (b) after “with regard to the permits granted” insert “ , varied or revoked ”.
- (7) In subsection (9) (only one bus to be used at one time under same permit) for “bus” substitute “ vehicle ”.
- (8) In consequence of the amendments made by this section, the heading to section 19 becomes “ Permits in relation to use of public service vehicles by educational and other bodies ”.

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VALID FROM 06/04/2009

### **58 Further provision with respect to such permits**

- (1) Section 20 of the TA 1985 (further provision with respect to permits under section 19) is amended as follows.
- (2) In subsection (4)(a) (attachment of conditions) for “bus” substitute “ vehicle ”.
- (3) In subsection (5)(b) (variation or revocation of permit) for “bus” substitute “ vehicle ”.
- (4) Section 21 of the TA 1985 (regulations with respect to permits under section 19) is amended as follows.
- (5) In subsection (1)—
  - (a) in paragraph (a), for “a bus” substitute “ a public service vehicle ”;
  - (b) in paragraph (d), for “any bus” substitute “ any vehicle ”.
- (6) At the end of the section insert—

“(4) See also section 23A of this Act (power to limit permits under section 19 or 22 to 5 years).”.

VALID FROM 06/04/2009

### **59 Relaxation of rules relating to community bus services**

- (1) Section 22 of the TA 1985 (community bus permits) is amended as follows.
- (2) In subsection (1), in paragraph (c) of the definition of “community bus service” (service must be provided by means of vehicle adapted to carry more than 8 but not more than 16 passengers) omit the words “but not more than sixteen”.
- (3) Section 23 of the TA 1985 (further provisions with respect to community bus permits) is amended as follows.
- (4) In subsection (2) (requirements) omit paragraph (a) (no payment for driver except expenses and loss of earnings).
- (5) At the end of the section insert—

“(9) See also section 23A of this Act (power to limit permits under section 19 or 22 to 5 years).”.

### **60 Power to limit permits under section 19 or 22 of TA 1985 to 5 years**

- (1) After section 23 of the TA 1985 (further provision with respect to community bus permits) insert—

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### “23A Power to limit permits under section 19 or 22 to 5 years

- (1) Regulations may provide that any permit granted under section 19 or 22 of this Act on or after a date specified in the regulations is to be for such period not exceeding 5 years as may be identified in the permit by the person granting it.
- (2) Nothing in subsection (1) above or any regulations made by virtue of that subsection prevents the grant of subsequent permits under section 19 or 22 of this Act to any person for further such periods.”
- (2) The Secretary of State may by regulations provide that any permit granted under section 19 or 22 of the TA 1985 before the section 23A start date is revoked as from such later date (the “revocation date”) as may be specified in the regulations.
- (3) The revocation date in the case of any permit must be no more than 5 years after the section 23A start date.
- (4) In this section, “the section 23A start date” means the date mentioned in section 23A(1) of the TA 1985 (power to limit permits granted under section 19 or 22 on or after specified date to 5 years).
- (5) Sections 134 and 135 of the TA 1985 (which, among other things, apply sections 60 and 61 of the PPVA 1981 in relation to certain regulations under the TA 1985) shall have effect as if—
  - (a) subsections (2) to (4) above were contained in Part 1 of the 1985 Act, and
  - (b) the matters specified in section 134(3) of the TA 1985 included the revocation of permits granted under section 19 or 22 of that Act.
- (6) Nothing in subsection (2), or in any regulations made under or by virtue of this section, prevents the grant of subsequent permits under section 19 or 22 of the TA 1985 to any person.
- (7) Any power to make regulations under or by virtue of this section includes power—
  - (a) to make different provision for different cases or for permits of different descriptions, and
  - (b) to make incidental, consequential, supplemental or transitional provision or savings.

#### Commencement Information

**I15** S. 60 partly in force; s. 60 in force at Royal Assent for certain purposes see s. 134

VALID FROM 06/04/2009

#### 61 Traffic commissioners to keep records about such permits

- (1) In section 126 of the TA 1985 (application of sections 52 and 56 of the PPVA 1981) subsection (3) (section 56: records) is amended as follows.
- (2) In the opening words, after “shall apply in relation to” insert “ each of the following ”.
- (3) For the word “and” at the end of paragraph (b) substitute the following paragraphs—

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- “(bb) permits under section 19 or 22 of this Act granted, varied or revoked by a traffic commissioner;
- (bc) copies of permits submitted to a traffic commissioner by way of a return made pursuant to an order under section 19(7)(c) of this Act;”.

*Services not operated as registered etc*

VALID FROM 09/02/2009

**62 Attachment of conditions to related licences**

- (1) Section 26 of the TA 1985 (conditions attached to PSV operator's licence) is amended as follows.
- (2) In subsection (1) (which sets out the cases in which the power is exercisable and the power)—
  - (a) for “Where” substitute “ Subsection (1A) below applies in any case where ”;
  - (b) for the words from “he may” to the end of subsection (1) substitute the subsections set out in subsection (3).
- (3) The subsections are—
  - “(1A) The traffic commissioner may (on granting the licence or at any other time) attach, or direct a traffic commissioner for another traffic area to attach, a condition falling within subsection (1B) below to any one or more of the following PSV operator's licences (wherever granted)—
    - (a) the licence mentioned in subsection (1) above;
    - (b) any other licence held by the operator;
    - (c) where the operator is an undertaking, any licence held by a group undertaking in relation to that undertaking (see subsection (7) below).
  - (1B) The conditions are—
    - (a) a condition prohibiting the holder of the licence from using vehicles under the licence to provide any local service of a description specified in the condition;
    - (b) a condition prohibiting the holder of the licence from so using vehicles to provide local services of any description.
  - (1C) A condition under subsection (1A) may be attached—
    - (a) indefinitely; or
    - (b) for a period of time specified by the traffic commissioner (which may commence immediately or on a date so specified).”.
- (4) In subsection (2)—
  - (a) after “attach” insert “ (or direct another commissioner to attach) ”;
  - (b) for “subsection (1)” substitute “ subsection (1A) ”;
  - (c) for “that subsection” substitute “ subsection (1) above ”.
- (5) After subsection (2) insert—



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“(2A) Where a direction is given under subsection (1A) above to a traffic commissioner for another area, that traffic commissioner must either—

- (a) attach the condition to the licence; or
- (b) if he considers that there is a good reason not to attach the condition to the licence, inform the traffic commissioner who gave the direction of that fact and of the reason.”.

(6) In subsection (3), for “subsection (1)” substitute “ subsection (1A) ”.

(7) In subsection (5) (power to impose conditions in certain cases relating to the use of vehicles)—

- (a) for “Where” substitute “ Subsection (5A) below applies in any case where ”;
- (b) for the words from “he may” to the end of subsection (5) substitute the subsections set out in subsection (8).

(8) The subsections are—

“(5A) The traffic commissioner may (on granting the licence or at any other time) attach, or direct a traffic commissioner for another traffic area to attach, to any one or more of the licences mentioned in subsection (5B) below a condition restricting the vehicles which the operator may use under the licence to vehicles specified in the condition.

(5B) The licences are the following PSV operator's licences (wherever granted)—

- (a) the licence mentioned in subsection (5) above;
- (b) any other licence held by the operator;
- (c) where the operator is an undertaking, any licence held by a group undertaking in relation to that undertaking (see subsection (7) below).

(5C) Where a direction is given under subsection (5A) above to a traffic commissioner for another area, that traffic commissioner must either—

- (a) attach the condition to the licence; or
- (b) if he considers that there is a good reason not to attach the condition to the licence, inform the traffic commissioner who gave the direction of that fact and of the reason.”.

(9) In subsection (6)—

- (a) for “subsection (5)” substitute “ subsection (5A) ”;
- (b) in paragraph (a) after “the commissioner” insert “ who attached that condition ”.

(10) At the end of the section insert—

“(7) In this section “undertaking” and “group undertaking” have the same meaning as in the Companies Acts (see section 1161 of the Companies Act 2006).”.

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VALID FROM 09/02/2009

## **63 Powers of traffic commissioners where services not operated as registered**

- (1) After section 27 of the TA 1985 (supplementary provisions with respect to conditions attached to a PSV operator's licence under section 26) insert—

### **“27A Additional powers where service not operated as registered**

- (1) This section applies in any case where it appears to a traffic commissioner that a person (“the operator”)—
- (a) has, or may have, failed to operate a local service registered under section 6 of this Act; or
  - (b) has, or may have, failed to operate such a service in accordance with the particulars registered under that section.

- (2) The traffic commissioner may direct a local traffic authority to provide him, within a specified period, with specified information connected with any aspect of the performance of their duties under section 16 or 17 of the Traffic Management Act 2004 (the network management duty, and arrangements for network management).

This subsection is supplemented by provisions in section 27B of this Act.

- (3) If the traffic commissioner holds an inquiry in connection with deciding whether—
- (a) to attach a condition under section 26 of this Act, or
  - (b) to make an order under section 155 of the Transport Act 2000,
- subsections (2) and (3) of section 250 of the Local Government Act 1972 (attendance of witnesses etc) apply to the inquiry as they apply to an inquiry under that section.

- (4) If the traffic commissioner identifies any remedial measures (see subsection (5)) which, in the traffic commissioner's opinion, could be taken—

- (a) by the operator, or
- (b) by a local traffic authority,

the traffic commissioner may prepare a report recommending the implementation of those measures.

- (5) In this section “remedial measures” means measures which, in the opinion of the traffic commissioner, would enable or facilitate the operation of the service in accordance with the particulars registered under section 6 of this Act.

- (6) A traffic commissioner who prepares a report under subsection (4) above—

- (a) must send a copy of the report to the operator and, if any of the recommended remedial measures are for implementation by a local traffic authority, to that authority;
- (b) must, if the implementation of any of the measures in the report would affect the operation of bus services in an integrated transport

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area, send a copy of the report to the Integrated Transport Authority for that area;

- (c) may send a copy of the report to any one or more of the persons in subsection (7) below;
- (d) may publish the report.

(7) The persons are—

- (a) the appropriate national authority,
  - (b) any local traffic authority or Integrated Transport Authority which the traffic commissioner considers appropriate,
- and any other persons whom the traffic commissioner considers appropriate.

(8) See subsection (6) of section 27B of this Act for the meaning of some of the expressions used in this section.

### **27B Provisions supplementing section 27A**

(1) This section supplements section 27A of this Act.

(2) In this section “direction” means a direction under subsection (2) of that section.

(3) The information that may be specified in a direction must be information which the local traffic authority have in their possession or can reasonably be expected to acquire.

(4) The information that may be specified in a direction includes information relating to—

- (a) the management of a local traffic authority's road network; or
- (b) the use of their road network by different kinds of traffic or the effects of that use.

(5) A direction may be given—

- (a) to one or more local traffic authorities; or
- (b) to local traffic authorities of a description specified in the direction.

(6) In section 27A of this Act and in this section the following expressions have the same meaning as in Part 2 of the Traffic Management Act 2004 (network management by local traffic authorities)—

appropriate national authority,  
 local traffic authority,  
 road network,  
 traffic,

except that “local traffic authority” does not include Transport for London, a London borough council or the Common Council of the City of London.”.

(2) In section 155 of the TA 2000 (penalties) at the end insert—

“(8) Other provisions that may need to be considered include the following provisions of the Transport Act 1985—

- (a) sections 26 and 27 (attachment of conditions to PSV operator's licence),

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(b) sections 27A and 27B (additional powers of traffic commissioner where services are not operated as registered etc).”.

## 64 Additional sanctions for failures by bus operators

- (1) Section 155 of the TA 2000 (penalties) is amended as follows.
  - (2) In subsection (1) (power to impose penalty for various failures) for “impose a penalty on the operator” substitute “ make one or more orders under subsection (1A) ”.
  - (3) After subsection (1) insert—
    - “(1A) The orders are—
      - (a) an order that the operator pay a penalty of such amount as is determined in accordance with subsection (3);
      - (b) an order that the operator expend such sum of money as is determined in accordance with subsection (3) in the manner mentioned in subsection (1B);
      - (c) an order that the operator provide compensation (see subsection (1C)) to passengers of such description as is specified in the order;
      - (d) an order of such other description as the Secretary of State (as respects England) or the Welsh Ministers (as respects Wales) may by order prescribe for the purposes of this paragraph.
    - (1B) An order under subsection (1A)(b) may require the operator to expend money on or towards—
      - (a) the provision of specified local services or specified facilities to be used in connection with such services;
      - (b) specified improvements in such services or facilities.In this subsection “specified” means specified in the order.
  - (1C) Compensation under subsection (1A)(c)—
    - (a) may take the form of payments of money, or
    - (b) may take such other form (including the provision of free travel or travel at a reduced price) as is specified in the order;and shall be of such amount, or equivalent in value to such amount, as is determined in accordance with subsection (3).”.
- (4) Omit subsection (2).
- (5) In subsection (3) for “That amount is” substitute “ The amount mentioned in subsections (1A)(a) and (b) and (1C) is such amount as the traffic commissioner thinks fit in all the circumstances of the case, but must not exceed ”.
- (6) Omit subsection (4).
- (7) In subsection (5) for “imposing the penalty” substitute “ making an order under subsection (1A) ”.
- (8) In subsection (6) for “the imposition of the penalty” substitute “ the making of the order ”.
- (9) After subsection (6) insert—

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“(6A) If the operator fails to comply with an order under subsection (1A)(b), (c) or (d), the traffic commissioner may order the operator to pay a penalty of such amount as is determined in accordance with subsection (6B).

(6B) That amount is such amount as the traffic commissioner thinks fit in all the circumstances of the case, but must not exceed 110% of the maximum amount which may be ordered in accordance with subsection (3).”.

(10) For subsection (7) substitute—

“(7) An amount ordered to be paid under subsection (1A)(a) or (6A) is—

- (a) payable to the Secretary of State (as respects England) or the Welsh Ministers (as respects Wales), and
- (b) recoverable as a civil debt.”.

(11) In consequence of the amendments made by this section, the heading to section 155 becomes “ Sanctions ”.

(12) Section 160 of the TA 2000 (Part 2: regulations and orders) is amended as follows.

(13) In subsection (2) before the words “shall be subject to annulment” insert “ , other than an order under section 155(1A)(d), ”.

(14) After subsection (2) insert—

“(3) A statutory instrument containing an order under section 155(1A)(d) shall not be made—

- (a) as respects England, unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament;
- (b) as respects Wales, unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.”.

#### Commencement Information

**I16** S. 64 partly in force; s. 64(3) in force at Royal Assent for specified purposes, see s. 134(1)(c)

VALID FROM 09/02/2009

#### 65 Operational data

(1) In section 155(1) of the TA 2000 (penalties) after paragraph (a) insert—

“(aa) failed to comply with the requirements of regulations made under section 6(9)(i), (j) or (k) of that Act.”.

(2) Section 6 of the TA 1985 (registration of local services) is amended as follows.

(3) In subsection (9) (regulations) after paragraph (k) insert—

“(ka) for imposing restrictions on the use that may be made of records made available as mentioned in paragraph (j) above or information given as mentioned in paragraph (k) above;”.

(4) After subsection (9) insert—

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- “(10) Regulations made by virtue of paragraph (ka) of subsection (9) above—
- (a) may create one or more criminal offences relating to the use of records or information in breach of the restrictions imposed by those regulations, but
  - (b) may not provide, in respect of any such offence, for a penalty greater than a fine not exceeding level 4 on the standard scale.”.

VALID FROM 09/02/2009

### *Powers of Passenger Transport Executives*

#### **66 Revival of certain powers of PTEs**

- (1) Section 10 of the TA 1968 (powers of Passenger Transport Executives) is amended as follows.
- (2) For subsection (1)(viii) (power to let passenger vehicles on hire) substitute—

“(viii) to let passenger vehicles on hire (with or without trailers for the carriage of goods)—

  - (a) as part of, or in connection with, an agreement providing for service subsidies, to an operator of public passenger transport services within the meaning of section 9A;
  - (b) to a body holding a permit granted under section 19 of the Transport Act 1985 (permits in relation to the use of vehicles by educational and other bodies);”.
- (3) After subsection (2) insert—

“(2A) The reference in subsection (1)(viii) above to an agreement providing for service subsidies includes—

  - (a) an agreement for such subsidies under section 9A(4) above;
  - (b) provision included in a quality contract under section 124 of the Transport Act 2000 for the making of payments by the PTE (see subsection (5)(a) of that section).”.
- (4) Any order made under section 60(5) of the TA 1985 shall cease to have effect to the extent that it provides that a PTE shall cease to have the power under section 10(1)(viii) of the TA 1968.
- (5) In section 60 of the TA 1985 (exclusion of public sector co-operation requirements and bus operating powers), omit subsections (2) to (4), (7) and (8).
- (6) The following provisions of the TA 1968 shall cease to have effect—
  - (a) section 10(1)(i) (power of PTE to carry passengers by road);
  - (b) section 24 (establishment and general duties of Bus Company and Scottish Group).

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VALID FROM 09/02/2009

### *Subsidised services*

#### **67 Subsidy to secure passenger transport services in integrated transport areas**

- (1) Section 9A of the TA 1968 (general functions of Passenger Transport Authorities and Executives) is amended as follows.
- (2) In subsection (4)(a) (power to enter into agreements providing for service subsidies) after “would not be provided” insert “, or would not be provided to a particular standard,”.
- (3) After subsection (4) insert—
  - “(4A) The reference in subsection (4)(a) of this section to the standard to which a service is provided includes—
    - (a) the frequency or timing of the service;
    - (b) the days, or times of day, when the service is provided;
    - (c) the vehicles used to provide the service.”.

#### **68 Subsidy to secure passenger transport services in other areas**

- (1) Section 63 of the TA 1985 (functions of local councils with respect to passenger transport in areas other than passenger transport areas) is amended as follows.
- (2) In subsection (5) (power to enter into agreements providing for service subsidies) at the beginning of paragraph (a) insert “in England and Wales, shall be exercisable only where the service in question would not be provided, or would not be provided to a particular standard, without subsidy;
  - (aa) in Scotland,”.
- (3) After subsection (5) insert—
  - “(5A) The reference in subsection (5)(a) above to the standard to which a service is provided includes—
    - (a) the frequency or timing of the service;
    - (b) the days, or times of day, when the service is provided;
    - (c) the vehicles used to provide the service.”.

#### **69 Subsidy to secure passenger transport services in Wales**

- (1) Section 7 of the Transport (Wales) Act 2006 (c. 5) (provision of public passenger transport services) is amended as follows.
- (2) In subsection (4) (circumstances in which agreements providing for service subsidies may be entered into) after “would not be provided” insert “, or would not be provided to a particular standard,”.
- (3) After subsection (4) insert—
  - “(4A) The reference in subsection (4) to the standard to which a service is provided includes—



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- (a) the frequency or timing of the service;
- (b) the days, or times of day, when the service is provided;
- (c) the vehicles used to provide the service.”.

#### **70 Extension of maximum length of subsidised services agreements**

In section 90(1) of the TA 1985 (maximum period to be specified in invitation to tender for agreement providing for service subsidies) for “five years” substitute “8 years”.

VALID FROM 09/02/2009

#### *Public transport companies etc*

#### **71 Removal of certain disabilities and requirements for consent**

- (1) Part 4 of the TA 1985 (which makes provision for the establishment of public transport companies and for the powers of Passenger Transport Authorities etc in relation to them) is amended as follows.
- (2) In section 74 (disabilities of directors of public transport companies), omit subsections (3) to (12).
- (3) Each of the following (which require the consent of the Secretary of State for the exercise of certain powers) is omitted—
  - (a) section 75(3) (subscription for, or acquisition or disposal of, certain shares, securities or other property or assets etc);
  - (b) section 79(3) (making or guaranteeing of certain loans);
  - (c) section 79(7) (guarantees etc in connection with disposals of certain shares, securities or other property or assets etc);
  - (d) in section 79(8) (provision of financial assistance by way of grants, loans, etc) the words “, with the consent of the Secretary of State,”.

#### *Transport users' advisory committees etc*

VALID FROM 06/04/2009

#### **72 The Disabled Persons Transport Advisory Committee: remuneration**

- (1) Schedule 5 to the TA 1985 (the Disabled Persons Transport Advisory Committee) is amended as follows.
- (2) In paragraph 2—
  - (a) at the beginning insert “ (1) ”;
  - (b) after “to pay to their members” insert “ such remuneration, and ”.
- (3) At the end of paragraph 2 insert—

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“(2) In relation to Scotland, the only remuneration that may be paid under this paragraph is remuneration for the performance of functions which relate to reserved matters (within the meaning of the Scotland Act 1998).”.

### **73 The Public Transport Users' Committee for England**

- (1) After section 125 of the TA 1985 (the Disabled Persons Transport Advisory Committee) insert—

*“The Public Transport Users' Committee for England*

#### **125A The Public Transport Users' Committee for England**

- (1) The Secretary of State may by order establish a body corporate, to be known as the Public Transport Users' Committee for England.

A body established under this subsection is referred to in this section and sections 125B and 125C as the Committee.

- (2) The Secretary of State may by order provide for a body established under subsection (1) to be known by a different name.
- (3) An order under subsection (1) may include provision—
- (a) about the status and membership of the Committee (including how members are to be appointed);
  - (b) about the proceedings of the Committee;
  - (c) about the declaration by members of any financial or other interests, and the recording of such interests;
  - (d) about officers and staff of the Committee;
  - (e) about the discharge of functions of the Committee (including provision for the discharge of functions by sub-committees with members who are not all members of the Committee);
  - (f) about the making of reports by the Committee to—
    - (i) the Secretary of State, or
    - (ii) such other person as the Secretary of State may determine;
  - (g) about the making of payments to or in respect of officers, staff and members of the Committee;
  - (h) about the payment of pensions and the making of other payments to or in respect of former officers and staff of the Committee;
  - (i) about the keeping of accounts by the Committee and their audit and submission to the Secretary of State;
  - (j) about the acquisition and disposal by the Committee of property, rights and liabilities (including land);
  - (k) authorising the Committee to charge for any services it provides in the discharge of any of its functions;
  - (l) requiring the Committee to have regard to the policies and activities of such other persons or bodies as the Secretary of State may determine;
  - (m) for the transfer of staff, property, rights and liabilities to the Committee.

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- (4) The Secretary of State may make payments to the Committee of such amounts, at such times, and on such conditions (if any) as the Secretary of State considers appropriate.
- (5) The Secretary of State may by order make provision for the transfer of staff, property, rights and liabilities from the Committee to any other person.
- (6) An order made by virtue of subsection (2) may make such provision, including provision amending, repealing or revoking any provision of this Act or any other enactment (whenever passed or made), as appears to the Secretary of State to be necessary in consequence of the order.

In this subsection “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).

- (7) No order shall be made under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

### **125B Functions of the Committee**

- (1) The Committee may consider and make recommendations or representations to the Secretary of State about any matter relating to—
  - (a) prescribed public passenger transport services, or public passenger transport services that are of a prescribed description, to the extent that they operate in England; or
  - (b) prescribed public passenger transport facilities in England, or public passenger transport facilities in England that are of a prescribed description.
- (2) The Committee must consider and make recommendations to the Secretary of State about any such matter if asked to do so by the Secretary of State.
- (3) The Secretary of State may by order—
  - (a) confer further functions on the Committee;
  - (b) remove functions from the Committee;
  - (c) make changes to any functions of the Committee;
  - (d) transfer any functions of the Committee to another person (including to the Secretary of State).
- (4) An order under subsection (3) may confer a function on the Committee, or make changes to a function of the Committee, only if the new function, or the function as changed, relates to—
  - (a) public passenger transport services, so far as operating in England; or
  - (b) public passenger transport facilities in England.
- (5) The functions that may be conferred on the Committee under subsection (3) include a power—
  - (a) to enter into arrangements with another body for discharging functions on behalf of that body in relation to England;
  - (b) to give effect to any such arrangements;
  - (c) to enter into arrangements with another body for that body to discharge any functions of the Committee on behalf of the Committee.

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- (6) The discharge of a function by the Committee on behalf of another body does not affect the responsibility of the body for the discharge of the function.
- (7) The discharge of a function by another body on behalf of the Committee does not affect the responsibility of the Committee for the discharge of the function.
- (8) The provision that may be made in an order under subsection (3) includes provision amending or repealing any provision of this Act or any other enactment conferring functions on the Committee.
- (9) The Committee may do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.
- (10) In this section—
  - “prescribed” means prescribed by order made by the Secretary of State;
  - “public passenger transport facilities” means facilities for public passenger transport services.
- (11) No order shall be made under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

### **125C Power to confer functions in relation to the Committee**

- (1) This section applies where an order under section 125B(3) confers on the Committee power to make recommendations or representations to a body or person.
  - (2) The Secretary of State may by order confer on the body or person functions in respect of such recommendations or representations.
  - (3) An order under this section may confer a function on a body or person only if the new function relates to—
    - (a) public passenger transport services, so far as operating in England; or
    - (b) public passenger transport facilities in England.
  - (4) The provision that may be made in an order under this section includes provision amending, repealing or revoking any provision of this Act or any other enactment (whenever passed or made) conferring functions on the body or person.
  - (5) In this section “public passenger transport facilities” has the same meaning as in section 125B.
  - (6) No order shall be made under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.”
- (2) In section 135 of the TA 1985 (procedure for making regulations, rules and orders), in subsection (4), after “85” insert “ , 125A, 125B, 125C ”.

#### **Commencement Information**

**I17** S. 73 partly in force; s. 73 in force at Royal Assent for specified purposes, see s. 134(1)(c)

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## 74 Power to confer non-rail functions on the Rail Passengers' Council

In Part 3 of the Railways Act 2005 (c. 14), after section 19 insert—

### “19A Power to confer non-rail functions on the Rail Passengers' Council

- (1) The Secretary of State may by order make provision conferring functions on the Rail Passengers' Council relating to—
  - (a) prescribed local services, or local services of a prescribed description, so far as operating in England;
  - (b) prescribed domestic coach services, or domestic coach services of a prescribed description, so far as operating in England;
  - (c) prescribed tramway passenger services, or tramway passenger services of a prescribed description, so far as operating in England;
  - (d) prescribed passenger transport facilities in England, or passenger transport facilities in England that are of a prescribed description.
- (2) The power conferred by subsection (1) includes power to amend any enactment (including this Act) for the purposes of making such provision.
- (3) An order under this section may make incidental, consequential, transitional or supplementary provision for the purposes of, or in consequence of, such an order, or for giving full effect to such an order.
- (4) The provision which may be included by virtue of subsection (3) in an order includes—
  - (a) provision for the body established by section 19 to be known by a different name;
  - (b) provision altering the number of persons that may be appointed as members of that body by the Secretary of State under section 19(1)(e);
  - (c) provision amending, repealing or revoking any provision of this Act or any other enactment, whenever passed or made.
- (5) In a case where an order under this section confers on the Rail Passengers' Council power to make recommendations or representations to a body or person, the provision which may be included by virtue of subsection (3) in the order also includes provision conferring on the body or person functions in respect of such recommendations or representations.
- (6) An order under this section may confer a function on a body or person by virtue of subsection (5) only if the new function relates to—
  - (a) services of a kind mentioned in paragraphs (a) to (c) of subsection (1), so far as operating in England, or
  - (b) passenger transport facilities in England.
- (7) Nothing in this section provides power to alter the functions of the Rail Passengers' Council so far as relating to the provision of railway passenger services or station services.
- (8) An order under this section is subject to the affirmative resolution procedure.
- (9) In this section—

“domestic coach service” means a bus service which—

  - (a) carries passengers at separate fares, and

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- (b) is not a local service;
- “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978);
- “local service” has the meaning given by section 2 of the Transport Act 1985;
- “passenger transport facilities” means facilities for services of a kind mentioned in paragraphs (a) to (c) of subsection (1);
- “prescribed” means prescribed by order made by the Secretary of State;
- “tramway passenger service” means any service for the carriage of passengers by tramway.”.

#### **Commencement Information**

**I18** S. 74 partly in force; s. 74 in force at Royal Assent for specified purposes, see s. 134(1)(c)

### *Display of transport-related information*

#### **75 Power to require display of certain information**

- (1) The appropriate national authority may make regulations requiring prescribed persons, or persons of a prescribed description, to display, in such place or places and in such manner as may be prescribed, information falling within subsection (2).
- (2) The information referred to in subsection (1) is prescribed information, or information of a prescribed description, relating to persons or bodies with functions relating to public passenger transport services.
- (3) Regulations under this section may provide that a traffic commissioner may impose a financial penalty on any operator of a public service vehicle who, without reasonable excuse, fails to comply with a requirement imposed on the operator by regulations under this section.
- (4) Regulations made by virtue of subsection (3) may—
  - (a) specify the maximum penalty that may be imposed by virtue of that subsection;
  - (b) require a traffic commissioner who has imposed a penalty by virtue of that subsection to give notice in writing to such persons as may be prescribed.
- (5) A penalty imposed by virtue of subsection (3) is—
  - (a) payable to the appropriate national authority that made the regulations, and
  - (b) recoverable as a civil debt.
- (6) An operator on whom a penalty is imposed by virtue of subsection (3) may appeal to the Transport Tribunal against the imposition of the penalty.  
 As respects appeals to the Transport Tribunal, see Schedule 4 to the TA 1985.
- (7) The power to make regulations under this section is exercisable by statutory instrument.

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- (8) A statutory instrument containing regulations made under this section by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) A statutory instrument containing regulations made under this section by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (10) In this section—
- “the appropriate national authority” means—
    - (a) in relation to public passenger transport services operating wholly or partly in England, the Secretary of State;
    - (b) in relation to public passenger transport services operating wholly or partly in Wales, the Welsh Ministers;
  - “prescribed” means prescribed in regulations;
  - “public passenger transport services” has the meaning given by section 63(10)(a) of the TA 1985;
  - “public service vehicle” and “traffic commissioner” have the same meaning as in the PPVA 1981.

#### Commencement Information

**119** S. 75 partly in force; s. 75 in force at Royal Assent for certain purposes see s. 134

VALID FROM 09/02/2009

### *Appeals to the Transport Tribunal*

#### **76 Appeals to the Transport Tribunal**

- (1) In Schedule 4 to the TA 1985 (constitution, powers and proceedings of the Transport Tribunal) paragraph 9 (powers of tribunal on appeal from determination of traffic commissioner) is amended as follows.
- (2) In sub-paragraph (1), for the words from “under” to “1999” substitute “ under any of the enactments specified in sub-paragraph (1A) below ”.
- (3) After sub-paragraph (1) insert—
- “(1A) The enactments are—
    - the 1981 Act;
    - this Act;
    - the Goods Vehicles (Licensing of Operators) Act 1995;
    - the Road Transport (Passenger Vehicles Cabotage) Regulations 1999;
    - section 155 of the Transport Act 2000;
    - section 75 of the Local Transport Act 2008.”.



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## PART 5

### INTEGRATED TRANSPORT AUTHORITIES ETC

#### CHAPTER 1

##### INTRODUCTORY

#### 77 **Change of name of passenger transport areas and PTAs**

- (1) The passenger transport areas established under section 9(1)(a)(i) of the TA 1968 are to be known as integrated transport areas.
- (2) The metropolitan county passenger transport authorities established under section 28(1) of the Local Government Act 1985 (c. 51) are to be known as Integrated Transport Authorities.
- (3) In consequence of subsection (1), any reference in any enactment (whenever passed or made) to a passenger transport area in England and Wales is to be read as a reference to an integrated transport area.
- (4) In consequence of subsection (2), any reference in any enactment (whenever passed or made) to—
  - (a) a metropolitan county passenger transport authority, or
  - (b) a Passenger Transport Authority for an area in England and Wales,
 is to be read as a reference to an Integrated Transport Authority.
- (5) Schedule 4 makes amendments consequential on subsections (1) and (2).  
 Those amendments do not affect the generality of subsections (3) and (4).
- (6) In this Part—
  - (a) “ITA” means an Integrated Transport Authority for an integrated transport area in England,
  - (b) any reference to an ITA is a reference to an ITA for the purposes of Part 2 of the TA 1968,
  - (c) any reference to an integrated transport area is a reference to an integrated transport area in England for the purposes of that Part of that Act.
- (7) Except where the context otherwise requires, any reference in this Part to an ITA includes a reference to—
  - (a) an ITA established under section 28 of the Local Government Act 1985, and
  - (b) an ITA established under this Part.
- (8) Except where the context otherwise requires, any reference in any enactment (whenever passed or made) to an Integrated Transport Authority for a passenger transport area in England includes a reference to an ITA established under this Part.
- (9) Accordingly, any reference in an enactment (whenever passed or made) which—
  - (a) is to a joint authority established under Part 4 of the Local Government Act 1985, and
  - (b) includes a reference to an Integrated Transport Authority established under section 28 of that Act,

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includes a reference to an ITA established under this Part.

- (10) Until subsections (1) and (2) of this section come into force, in any enactment (whenever passed or made)—
- (a) any reference to an integrated transport area is to be read as a reference to a passenger transport area;
  - (b) any reference to an Integrated Transport Authority (or an ITA) is to be read as a reference to a Passenger Transport Authority (or a PTA).
- (11) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

#### Commencement Information

**I20** S. 77 partly in force; s. 77(10) in force at Royal Assent see s. 134

## CHAPTER 2

### ARRANGEMENTS RELATING TO INTEGRATED TRANSPORT AUTHORITIES

#### *Establishment of new ITA by order*

#### **78 Power to establish a new ITA**

- (1) The Secretary of State may by order—
- (a) designate any area in England outside Greater London as an integrated transport area, and
  - (b) establish an ITA for the integrated transport area.
- (2) An order may be made only if the Secretary of State, having had regard to a scheme prepared and published under section 80 or 81, considers that the establishment of the ITA is likely to improve—
- (a) the exercise of statutory functions relating to transport in the area to be designated, and
  - (b) the effectiveness and efficiency of transport within that area.
- (3) The requirement in subsection (2) to have regard to a scheme does not apply in relation to any area if a direction has been given under section 81 in relation to the area and any period specified in the direction for the preparation and publication of a scheme has expired.
- (4) An integrated transport area may be designated by an order only if it consists of the whole of two or more counties or districts.
- (5) A local government area may be included in an integrated transport area designated by an order only if—
- (a) it was included in the scheme prepared and published under section 80 or 81 (as the case may be), or
  - (b) in the circumstances described in subsection (3), it is the area of an authority to whom the direction under section 81 was given.

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- (6) No part of an integrated transport area established under this section may be separated from the rest of it by a territory which is part of another local government area but which is not included in the integrated transport area.
- (7) Before making an order the Secretary of State must consult—
- (a) such representatives of the appropriate authorities, and
  - (b) such other persons (if any),
- as the Secretary of State considers appropriate.
- (8) In subsection (7) the appropriate authorities are—
- (a) if the area to be designated as an integrated transport area includes a county, the county council;
  - (b) if that area includes a district, the district council and the council of the county (if any) in which the district lies.
- (9) In making an order the Secretary of State must have regard to the need—
- (a) to reflect the identities and interests of local communities, and
  - (b) to secure effective and convenient local government.

#### **Commencement Information**

**I21** S. 78 partly in force; s. 78 in force at Royal Assent for certain purposes see s. 134

### **79 Provision that may be made in an order under section 78**

- (1) An order under section 78 may make, in relation to the ITA,—
- (a) provision about its constitutional arrangements (within the meaning given by section 84(2)),
  - (b) any provision which may be made by an order under section 86, 87 or 88.
- (2) An order made by virtue of subsection (1)(a) which includes provision about the number and appointment of members of the ITA must provide—
- (a) for a majority of the members of the ITA to be appointed by the ITA's constituent councils (see subsection (3)),
  - (b) for those members to be appointed from among the elected members of the constituent councils, and
  - (c) for each of the representative councils (see subsection (4)) to appoint at least one of its elected members as a member of the ITA.
- (3) For the purposes of this section, the constituent councils of an ITA are—
- (a) any county council, and
  - (b) any district council,
- for an area within the integrated transport area of the ITA.
- (4) For the purposes of subsection (2)(c), the following councils are representative councils in respect of an area to be designated as the integrated transport area of an ITA—
- (a) if that area includes the whole of a county, the county council;
  - (b) if that area includes a metropolitan district or a non-metropolitan district comprised in an area for which there is no county council, the district council;

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- (c) if that area includes one or more districts in a county but does not include the whole county, either the county council or the council for each of those districts (as determined by or in accordance with the order in question).
- (5) If an order made by virtue of subsection (1)(a) provides for members of an ITA to be appointed otherwise than from among the elected members of its constituent councils (see subsection (2)(a) of section 84), it must provide for those members to be non-voting members (see subsection (2)(b) of that section).
- (6) The voting members of an ITA may resolve that provision made in accordance with subsection (5) is not to apply in the case of the ITA.

VALID FROM 09/02/2009

## **80 Authorities' review: new ITA**

- (1) Any two or more of the following authorities—
- (a) a council for a county in England comprised in an area for which there is no ITA,
  - (b) a council for a district in England comprised in an area for which there is no ITA,
- may undertake a review of the effectiveness and efficiency of transport within an area satisfying the requirements of subsections (2) and (3) (a “review area”).
- (2) A review area must include—
- (a) if the review is being undertaken by a county council, the whole of one or more of the districts in the county (or, if there are no districts in the county, the whole of the county);
  - (b) if the review is being undertaken by a district council, the whole of the district.
- (3) A review area may also include—
- (a) the whole of any county the council for which is not taking part in the review;
  - (b) the whole of any district the council for which is not taking part in the review.
- (4) Where two or more authorities, having undertaken a review under subsection (1), conclude that the designation of an area as an integrated transport area, and the establishment of an ITA for that area, would improve—
- (a) the exercise of statutory functions relating to transport in the area, and
  - (b) the effectiveness and efficiency of transport within the area,
- they must prepare and publish a scheme for the establishment of an ITA for the area (in this section referred to as a “proposed integrated transport area”).
- (5) A proposed integrated transport area—
- (a) must consist of the whole or any part of the review area, and
  - (b) may, if the appropriate authority consents, include one or more other counties or districts,
- but it must be an area which is capable of being designated by an order under section 78.
- (6) In subsection (5) the appropriate authority is—

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- (a) in the case of a county or non-metropolitan district comprised in an area for which there is a county council, the county council;
- (b) in the case of a non-metropolitan district comprised in an area for which there is no county council, the district council;
- (c) in the case of a metropolitan district, the district council.

VALID FROM 09/02/2009

### **81 Secretary of State's power to direct a review: new ITA**

- (1) The Secretary of State may direct two or more of the authorities falling within subsection (2) (including two or more authorities of the same description) to undertake a review of the effectiveness and efficiency of transport within the whole or any part of the authorities' combined area.
- (2) An authority falls within this subsection if it is—
  - (a) a council for a county in England comprised in an area for which there is no ITA,
  - (b) a council for a district in England comprised in an area for which there is no ITA.
- (3) The Secretary of State may give a direction only if the Secretary of State considers that the review and any scheme are likely to improve—
  - (a) the exercise of statutory functions relating to transport in an integrated transport area or proposed integrated transport area, and
  - (b) the effectiveness and efficiency of transport within such an area.
- (4) A direction may require the preparation and publication of a scheme for the establishment of an ITA for any area (being an area which is capable of being designated by an order under section 78) which consists of the whole or any part of the authorities' combined area.
- (5) The review must be undertaken jointly by all the authorities subject to the direction.
- (6) The provision which may be made by a direction includes provision for—
  - (a) the timetable for the review and for the preparation and publication of a scheme,
  - (b) the procedures to be followed in carrying out the review,
  - (c) particular issues which the review and any scheme must address,
  - (d) the implementation of any scheme.
- (7) The authorities to which a direction is given must, in carrying out the review and preparing any scheme, do so in the manner that they consider most likely to improve—
  - (a) the exercise of statutory functions relating to transport in their combined area, and
  - (b) the effectiveness and efficiency of transport within that area.

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*Other powers to make orders about arrangements relating to an ITA*

VALID FROM 09/02/2009

**82 Authorities' review of arrangements**

- (1) Any one or more of the authorities falling within subsection (2) may undertake a review of one or more of the matters mentioned in subsection (3).
- (2) An authority falls within this subsection if it is—
  - (a) an ITA,
  - (b) a district council for an area comprised in an integrated transport area,
  - (c) a county council for an area comprised in an integrated transport area,
  - (d) a county council or district council for an area which could be comprised in a proposed integrated transport area.
- (3) The matters are—
  - (a) those in relation to which an order may be made under any of sections 84 to 91,
  - (b) in relation to an ITA or any executive body of the ITA existing at the time of the review, any matter concerning the ITA or the executive body which the ITA has power to determine.
- (4) A review under this section must relate to one or more integrated transport areas or proposed integrated transport areas.
- (5) Where one or more authorities, having undertaken a review under subsection (1), conclude that the exercise of the power to make an order under any one or more of sections 84 to 91 would improve—
  - (a) the exercise of statutory functions relating to transport in an integrated transport area or proposed integrated transport area, or
  - (b) the effectiveness and efficiency of transport within such an area,they must prepare and publish a scheme relating to the power to make that order or those orders.
- (6) In this section a “proposed integrated transport area” means one which may be designated by an order under section 90 (ITA boundary changes).

VALID FROM 09/02/2009

**83 Secretary of State's power to direct a review of arrangements**

- (1) The Secretary of State may direct one or more of the authorities falling within subsection (2) (including two or more authorities of the same description) to undertake a review of one or more of the matters mentioned in subsection (3).
- (2) An authority falls within this subsection if it is—
  - (a) an ITA,
  - (b) a district council for an area comprised in an integrated transport area,
  - (c) a county council for an area comprised in an integrated transport area,

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- (d) a county council or district council for an area which could be comprised in any proposed integrated transport area to which the direction relates.
- (3) The matters are—
- (a) those in relation to which an order may be made under any of sections 84 to 91,
  - (b) in relation to an ITA or any executive body of the ITA existing at the time of the direction, any matter concerning the ITA or the executive body which the ITA has power to determine.
- (4) The Secretary of State may give a direction only if the Secretary of State considers that the review and any scheme are likely to improve—
- (a) the exercise of statutory functions relating to transport in an integrated transport area or proposed integrated transport area, or
  - (b) the effectiveness and efficiency of transport within such an area.
- (5) A direction under this section must relate to one or more integrated transport areas or proposed integrated transport areas.
- (6) A direction may require the preparation and publication of a scheme relating to the power to make an order under any of sections 84 to 91.
- (7) If a direction is given to two or more authorities the review must be undertaken jointly by all the authorities subject to the direction.
- (8) The provision which may be made by a direction includes provision for—
- (a) the timetable for the review and for the preparation and publication of a scheme,
  - (b) the procedures to be followed in carrying out the review,
  - (c) particular issues which the review and any scheme must address,
  - (d) the implementation of any scheme.
- (9) An authority to which a direction is given must, in carrying out the review and preparing any scheme, do so in the manner that they consider most likely to improve—
- (a) the exercise of statutory functions relating to transport in an integrated transport area or proposed integrated transport area, and
  - (b) the effectiveness and efficiency of transport within such an area.
- (10) An authority which is carrying out a review and preparing any scheme in accordance with a direction may include in the review and any scheme—
- (a) any matter (whether or not it is the subject of the direction) in relation to which an order may be made under any of sections 84 to 91, and
  - (b) where the review is carried out by an ITA, whether alone or jointly, any matter concerning the ITA which the ITA has power to determine.
- (11) In relation to the dissolution of an integrated transport area (see section 91) the references in subsections (4) and (9) to an integrated transport area have effect as references to the territory comprised in a dissolved integrated transport area.
- (12) In this section “proposed integrated transport area” means one which may be designated by an order under section 90 (ITA boundary changes).



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## 84 Constitutional arrangements

- (1) The Secretary of State may by order make provision about the constitutional arrangements of an ITA.
- (2) “Constitutional arrangements”, in relation to an ITA, means—
  - (a) the membership of the ITA (including the number and appointment of members of the ITA and the remuneration of, and pensions or allowances payable to or in respect of, any member of the ITA),
  - (b) the voting powers of members of the ITA (including provision for different weight to be given to the vote of different descriptions of member),
  - (c) the executive arrangements of the ITA,
  - (d) the functions of any executive body of the ITA.
- (3) In subsection (2)(c) “executive arrangements” means—
  - (a) the appointment of an executive,
  - (b) the functions of the ITA which are the responsibility of an executive,
  - (c) the functions of the ITA which are the responsibility of an executive and which may be discharged by a committee of the ITA or by a body other than the ITA,
  - (d) arrangements relating to the review and scrutiny of the discharge of functions,
  - (e) access to information on the proceedings of an executive of the ITA,
  - (f) the disapplication of section 15 of the Local Government and Housing Act 1989 (c. 42) (duty to allocate seats to political groups) in relation to an executive of the ITA or a committee of such an executive,
  - (g) the keeping of a record of any arrangements relating to the ITA and falling within paragraphs (a) to (f).
- (4) The provision which may be made by an order by virtue of subsection (2)(d) includes—
  - (a) provision setting up or dissolving an executive body of an ITA, or merging two or more executive bodies of an ITA,
  - (b) provision conferring functions on, or removing functions from, an executive body of an ITA,
  - (c) provision transferring functions of an ITA to an executive body of the ITA, and transferring functions of an executive body of an ITA to the ITA.
- (5) An order may not provide for the budget of an ITA to be agreed otherwise than by the ITA.

### Commencement Information

**I22** S. 84 partly in force; s. 84 in force at Royal Assent for certain purposes see s. 134

## 85 Provision that may be made in an order under section 84: membership of ITA

- (1) An order made by virtue of section 84(2)(a) which includes provision about the number and appointment of members of the ITA must provide—
  - (a) for a majority of the members of the ITA to be appointed by the ITA's constituent councils (see subsection (2)),
  - (b) for those members to be appointed from among the elected members of the constituent councils, and

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- (c) for each of the representative councils (see subsection (3)) to appoint at least one of its elected members as a member of the ITA.
- (2) For the purposes of this section, the constituent councils of an ITA are—
- (a) any county council, and
  - (b) any district council,
- for an area within the integrated transport area of the ITA.
- (3) For the purposes of subsection (1)(c), the following councils are representative councils in respect of an area which is, or is to be designated as, the integrated transport area of an ITA—
- (a) if that area includes the whole of a county, the county council;
  - (b) if that area includes a metropolitan district or a non-metropolitan district comprised in an area for which there is no county council, the district council;
  - (c) if that area includes one or more districts in a county but does not include the whole county, either the county council or the council for each of those districts (as determined by or in accordance with the order).
- (4) If an order under section 84 provides (by virtue of subsection (2)(a) of that section) for members of an ITA to be appointed otherwise than from among the elected members of its constituent councils, the order must provide (by virtue of subsection (2)(b) of that section) for those members to be non-voting members.
- (5) The voting members of an ITA may resolve that provision made in accordance with subsection (4) is not to apply in the case of the ITA.

#### Commencement Information

**I23** S. 85 partly in force; s. 85 in force at Royal Assent for certain purposes see s. 134

## 86 Delegation of functions of the Secretary of State

- (1) The Secretary of State may, to any extent, by order delegate to an ITA or an eligible local transport authority any function of the Secretary of State—
- (a) which does not consist of a power to make regulations or other instruments of a legislative character or a power to fix fees or charges, and
  - (b) which the Secretary of State considers can appropriately be exercised by the ITA or eligible local transport authority.
- (2) A delegation by virtue of this section may be made subject to conditions.
- (3) “Eligible local transport authority” means an authority which has been designated as a local transport authority by an order under section 90 or 91.

#### Commencement Information

**I24** S. 86 partly in force; s. 86 in force at Royal Assent for certain purposes see s. 134

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## 87 Delegation of local authority functions

- (1) The Secretary of State may, to any extent, by order provide for the delegation to an ITA, or to an eligible local transport authority, of any function of a local authority—
  - (a) which is exercisable by the local authority in relation to an area which is comprised in the ITA's integrated transport area or the eligible local transport authority's area, and
  - (b) which the Secretary of State considers can appropriately be exercised by the ITA or eligible local transport authority.
- (2) A delegation by virtue of this section may be made subject to conditions.
- (3) An order under this section which provides for the delegation of any function of a charging authority within the meaning of Part 3 of the TA 2000 may be made—
  - (a) where the area in relation to which the order has effect comprises all or part of the area of one charging authority, only with the consent of that authority;
  - (b) where that area comprises all or part of the area of two or more charging authorities, only with the consent of a majority of those authorities.
- (4) “Local authority” means—
  - (a) a county council,
  - (b) a district council.
- (5) “Eligible local transport authority” means an authority which has been designated as a local transport authority by an order under section 90 or 91.

### Commencement Information

**I25** S. 87 partly in force; s. 87 in force at Royal Assent for certain purposes see s. 134

## 88 Conferral of a power to direct

- (1) The Secretary of State may by order confer on—
  - (a) an ITA, or
  - (b) an authority which has been designated as a local transport authority by an order under section 90 or 91,a power to give a direction about the exercise of an eligible power.
- (2) An “eligible power” means a power of a council for a county, metropolitan district or non-metropolitan district comprised in an area for which there is no county council, which the council has—
  - (a) as highway authority by virtue of section 1 of the Highways Act 1980 (c. 66), or
  - (b) as traffic authority by virtue of section 121A of the Road Traffic Regulation Act 1984 (c. 27).
- (3) In this section references to a power do not include references to a duty.
- (4) A power of direction under this section must relate only to the exercise of an eligible power in—
  - (a) the area of the directing authority, and
  - (b) the area of the authority subject to the direction.

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- (5) Where an authority has been designated as a local transport authority by an order under section 91 (dissolution of an integrated transport area), the reference in subsection (4) to the area of the authority is a reference to the territory previously comprised in the integrated transport area.
- (6) A power of direction under this section must relate only to the exercise of an eligible power in respect of—
- (a) a particular road (whether or not specified in the order), or
  - (b) a description of road (whether or not specified in the order).
- (7) In subsection (6) “road”—
- (a) has the meaning given by section 142(1) of the Road Traffic Regulation Act 1984, and
  - (b) does not include any road which is the subject of a concession agreement under Part 1 of the New Roads and Street Works Act 1991 (c. 22).
- (8) A power of direction under this section must relate only to any one or more of—
- (a) the provision of information about the exercise of an eligible power which the authority subject to the direction has or might reasonably be expected to acquire,
  - (b) the imposition on such an authority of requirements relating to procedures to be followed prior to the exercise of an eligible power,
  - (c) the imposition on such an authority of requirements relating to the obtaining of consent prior to the exercise of an eligible power,
  - (d) the imposition on such an authority of conditions subject to which an eligible power may be exercised (including conditions relating to the times at which, and the manner in which, an eligible power may be exercised),
  - (e) a requirement to exercise an eligible power (including a requirement to exercise an eligible power subject to conditions),
  - (f) a prohibition on the exercise of an eligible power.
- (9) A power of direction under this section may be conferred subject to conditions.
- (10) Any direction given by virtue of this section—
- (a) must be given in writing and may be varied or revoked by a further direction in writing, and
  - (b) may make different provision for different cases and different provision for different areas.
- (11) If an order makes provision for a direction by virtue of subsection (8)(e), the order must make provision for the direction not to have effect unless the directing authority meets the cost of complying with the direction.
- (12) An order under this section must not provide that an authority is subject to concurrent directions given by more than one directing authority about the exercise of the same eligible power.

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**Commencement Information**

**I26** S. 88 partly in force; s. 88 in force at Royal Assent for certain purposes see s. 134

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## 89 Contravention of an order under section 88

- (1) An order under section 88 may provide that, if an authority exercises any power in contravention of a direction under such an order, the directing authority may take such steps as it considers appropriate to reverse or modify the effect of the exercise of the power.
- (2) For the purposes of subsection (1), the directing authority has power to exercise any power of the authority subject to the direction on behalf of that authority.
- (3) Any reasonable expenses incurred by the directing authority in taking any steps under subsection (1) are recoverable from the authority subject to the direction as a civil debt.

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### Commencement Information

I27 S. 89 partly in force; s. 89 in force at Royal Assent for certain purposes see s. 134

## 90 Changing the boundaries of an integrated transport area

- (1) The Secretary of State may by order designate an integrated transport area in England by—
  - (a) including a county or district in an integrated transport area, or
  - (b) removing a county or district from an integrated transport area.
- (2) No part of an integrated transport area established under this section may be separated from the rest of it by a territory which is part of another local government area but which is not included in the integrated transport area.
- (3) Where by virtue of an order a territory ceases to be comprised in an integrated transport area, the order—
  - (a) must make provision for designating an authority to be a local transport authority for the territory for the purposes of section 108(4) of the TA 2000, and
  - (b) may transfer functions to that authority from the ITA which was formerly the local transport authority.
- (4) Provision made by virtue of subsection (3) may designate different authorities for different parts of the territory.

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### Commencement Information

I28 S. 90 partly in force; s. 90 in force at Royal Assent for certain purposes see s. 134

## 91 Dissolution of an integrated transport area

- (1) The Secretary of State may by order dissolve an integrated transport area and abolish the ITA for the integrated transport area.
- (2) The order—
  - (a) must make provision for designating an authority to be a local transport authority for the territory previously comprised in the integrated transport area for the purposes of section 108(4) of the TA 2000, and

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- (b) may transfer functions to that authority from the ITA which was formerly the local transport authority.
- (3) Provision made by virtue of subsection (2) may designate different authorities for different parts of the territory.

#### **Commencement Information**

**I29** S. 91 partly in force; s. 91 in force at Royal Assent for certain purposes see s. 134

#### *Further provision about orders*

VALID FROM 09/02/2009

#### **92 Orders under sections 84 to 91**

- (1) This section applies to an order made under any of sections 84 to 91.
- (2) An order may be made only if the Secretary of State, having had regard to a scheme prepared and published under section 82 or 83, considers that the making of the order is likely to improve—
  - (a) the exercise of statutory functions relating to transport in the area or areas to which the order relates, or
  - (b) the effectiveness and efficiency of transport within that area or those areas.
- (3) The requirement in subsection (2) to have regard to a scheme does not apply in relation to any matter if a direction has been given under section 83 in relation to the matter and any period specified in the direction for the preparation and publication of a scheme has expired.
- (4) Before making an order the Secretary of State must consult—
  - (a) such representatives of authorities mentioned in sections 82(2) and 83(2), and
  - (b) such other persons (if any),
 as the Secretary of State considers appropriate.
- (5) In making an order the Secretary of State must have regard to the need—
  - (a) to reflect the identities and interests of local communities, and
  - (b) to secure effective and convenient local government.
- (6) An order which makes provision for dissolution of an integrated transport area may be made only with the consent of a majority of the councils falling within subsection (7).
- (7) The councils are—
  - (a) the councils for any metropolitan districts whose areas are comprised in the integrated transport area,
  - (b) the councils for any counties whose areas are comprised in the integrated transport area,
  - (c) any unitary councils for any non-metropolitan districts whose areas are comprised in the integrated transport area.

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- (8) An order which changes the boundaries of an integrated transport area may be made only if each council mentioned in subsection (9) has consented to the boundary change.
- (9) The councils are—
- (a) any council for a county or a metropolitan district, and any unitary council, whose area—
    - (i) is comprised in the existing integrated transport area, and
    - (ii) would not be comprised in the proposed integrated transport area,
  - (b) any council for a county or a metropolitan district, and any unitary council, whose area—
    - (i) is not comprised in the existing integrated transport area, and
    - (ii) would be comprised in the proposed integrated transport area.
- (10) In this section a “unitary council” is a council for a non-metropolitan district comprised in an area for which there is no county council.
- (11) This section has effect in relation to the variation or revocation of an order as it has effect in relation to the making of an order.

### 93 Incidental etc provision

- (1) The Secretary of State may by order make incidental, consequential, transitional or supplementary provision for the purposes of, or in consequence of, an order under this Chapter, or for giving full effect to such an order.
- (2) The provision which may be included by virtue of this section in an order includes provision for the transfer of property, rights and liabilities by—
- (a) the order,
  - (b) a scheme made by the Secretary of State under the order,
  - (c) a scheme required to be made under the order by a person other than the Secretary of State.
- (3) The provision which may be included by virtue of subsection (2) in an order includes provision—
- (a) for the creation or imposition by the Secretary of State of new rights or liabilities in respect of anything transferred by or under an order,
  - (b) for the management or custody of transferred property,
  - (c) for bodies to make agreements with respect to any property, income, rights, liabilities and expenses of, and any financial relations between, the parties to the agreement.
- (4) The provision which may be included by virtue of this section in an order includes provision amending, modifying, repealing or revoking any enactment, whenever passed or made.
- (5) The provision which may be included by virtue of subsection (4) does not include provision amending or disapplying sections 15 to 17 of, and Schedule 1 to, the Local Government and Housing Act 1989 (c. 42) (political balance on local authority committees etc).



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- (6) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

#### **Commencement Information**

**I30** S. 93 partly in force; s. 93 in force at Royal Assent for certain purposes see s. 134

VALID FROM 09/02/2009

#### **94 Procedure for orders under this Chapter**

- (1) Any power to make an order under this Chapter is exercisable by statutory instrument.
- (2) A statutory instrument containing an order under this Chapter may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (3) If, apart from this subsection, an instrument containing an order under this Chapter would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it shall proceed in that House as if it were not a hybrid instrument.

VALID FROM 09/02/2009

#### *Directions and guidance*

#### **95 Further provision about directions**

- (1) Any direction under section 81 or 83 must be given in writing and may be varied or revoked by a further direction in writing.
- (2) Any such direction may make different provision for different cases and different provision for different areas.

#### **96 Guidance**

- (1) The Secretary of State may give guidance about anything which could be done by a local authority under this Chapter.
- (2) Any guidance under this section must be given in writing and may be varied or revoked by further guidance in writing.
- (3) Any such guidance may make different provision for different cases and different provision for different areas.
- (4) In exercising any function under this Chapter a local authority must have regard to any guidance under this section.
- (5) In this section a “local authority” is—

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- (a) a county council;
- (b) a district council;
- (c) an ITA.

VALID FROM 09/02/2009

*Power to change name*

**97 Change of name of ITA**

- (1) An ITA may, by a resolution in relation to which the requirements mentioned in subsection (2) are met, change the name by which it is known.
- (2) The requirements are—
  - (a) that the resolution is considered at a meeting of the ITA which is specially convened for the purpose,
  - (b) that particulars of the resolution were included in the notice of the meeting, and
  - (c) that the resolution is passed at the meeting by not less than two-thirds of the members of the ITA who vote on it.
- (3) An ITA which changes its name under this section must—
  - (a) send notice of the change to the Secretary of State, and
  - (b) publish the notice in such manner as the Secretary of State may direct.
- (4) A change of name under this section does not affect the rights or obligations of the ITA concerned or any other person, or render defective any legal proceedings; and any legal proceedings may be commenced or continued as if there had been no change of name.

VALID FROM 09/02/2009

*Amendment of power to reorganise functions*

**98 Amendment of power to reorganise functions**

- (1) Section 42 of the Local Government Act 1985 (c. 51) (reorganisation of functions by Secretary of State) is amended in accordance with subsections (2) and (3).
- (2) In subsection (1)—
  - (a) omit “any of the following purposes”,
  - (b) omit paragraph (c),
  - (c) in paragraph (d), omit “whether or not an order is made for any of the foregoing purposes”.
- (3) In subsection (3) omit “any passenger transport authority”.

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- (4) In section 9(1) of the TA 1968 (Passenger Transport Areas, etc) omit “Subject to any order under section 42(1)(c) of the Local Government Act 1985 (alteration or abolition of passenger transport areas, etc)”.

## CHAPTER 3

### POWER TO PROMOTE WELL-BEING

VALID FROM 09/02/2009

#### **99 Power to promote well-being**

- (1) An ITA has power to take any action if the ITA determines that doing so is likely to achieve any one or more of the following objects—
  - (a) the promotion or improvement of the economic well-being of its area,
  - (b) the promotion or improvement of the social well-being of its area,
  - (c) the promotion or improvement of the environmental well-being of its area.
- (2) The power under subsection (1) may be exercised in relation to or for the benefit of—
  - (a) the whole or any part of the integrated transport area, or
  - (b) all or any persons resident or present in, or travelling in or through, the integrated transport area.
- (3) The power under subsection (1) includes power to—
  - (a) incur expenditure,
  - (b) give financial assistance to any person,
  - (c) enter into arrangements or agreements with any person,
  - (d) co-operate with, or facilitate or co-ordinate the activities of, any person,
  - (e) exercise on behalf of any person any functions of that person, and
  - (f) provide staff, goods, services or accommodation to any person.
- (4) The power under subsection (1) includes power to do anything in relation to, or for the benefit of, any person or area situated outside its area if it considers that doing so is likely to achieve any one or more of the objects in that subsection.
- (5) Nothing in subsection (3) or (4) affects the generality of the power under subsection (1).
- (6) Subsection (7) applies if there is, in relation to an ITA—
  - (a) a PTE established under section 9 of the TA 1968 for the integrated transport area of the ITA, or
  - (b) an executive body established by virtue of section 79(1)(a) or 84(2)(d).
- (7) The ITA may delegate to the PTE or executive body its function of taking action under subsection (1) (but not the function of determining what action to take).

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## **100 Limits on power to promote well-being**

- (1) The power under section 99(1) does not enable an ITA to do anything which the ITA is unable to do by virtue of any prohibition, restriction or limitation on its powers which is contained in any enactment (whenever passed or made).
- (2) The power under section 99(1) does not enable an ITA to raise money (whether by precepts, borrowing or otherwise).
- (3) The Secretary of State may by order made by statutory instrument make provision preventing ITAs from doing, by virtue of section 99(1), anything which is specified, or is of a description specified, in the order.
- (4) The power under subsection (3) may be exercised in relation to—
  - (a) all ITAs,
  - (b) particular ITAs, or
  - (c) ITAs of particular descriptions.
- (5) Before making an order under subsection (3), the Secretary of State must consult—
  - (a) such representatives of ITAs,
  - (b) such representatives of local government, and
  - (c) such other persons (if any),as the Secretary of State considers appropriate.
- (6) Subsection (5) does not apply to an order under subsection (3) which is made only for the purpose of amending an earlier order under that subsection—
  - (a) so as to extend the earlier order, or any provision of the earlier order, to a particular ITA or to ITAs of a particular description, or
  - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular ITA or to ITAs of a particular description.
- (7) Before exercising the power under section 99(1), an ITA must have regard to any guidance for the time being issued by the Secretary of State about the exercise of that power.
- (8) Before issuing any guidance under subsection (7), the Secretary of State must consult—
  - (a) such representatives of ITAs,
  - (b) such representatives of local government, and
  - (c) such other persons (if any),as the Secretary of State considers appropriate.
- (9) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).
- (10) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

### **Commencement Information**

**I31** S. 100 partly in force; s. 100 in force at Royal Assent for certain purposes see s. 134

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## 101 Power to amend or repeal enactments

- (1) If the Secretary of State thinks that an enactment (whenever passed or made) prevents or obstructs ITAs from exercising their power under section 99(1), the Secretary of State may by order made by statutory instrument amend, repeal, revoke or disapply that enactment.
- (2) The power under subsection (1) may be exercised in relation to—
  - (a) all ITAs,
  - (b) particular ITAs, or
  - (c) ITAs of a particular description.
- (3) The power under subsection (1) to amend or disapply an enactment includes a power to amend or disapply an enactment for a particular period.
- (4) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).
- (5) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

### Commencement Information

**I32** S. 101 partly in force; s. 101 in force at Royal Assent for certain purposes see s. 134

VALID FROM 09/02/2009

## 102 Procedure for orders under section 101

- (1) Before making an order under section 101 the Secretary of State must consult—
  - (a) such representatives of ITAs,
  - (b) such representatives of local government, and
  - (c) such other persons (if any),
 as appear to the Secretary of State likely to be affected by the proposals.
- (2) If, following consultation under subsection (1), the Secretary of State proposes to make an order under section 101, the Secretary of State must lay before each House of Parliament a document which—
  - (a) explains the proposals,
  - (b) sets them out in the form of a draft order, and
  - (c) gives details of consultation under subsection (1).
- (3) Where a document relating to proposals is laid before Parliament under subsection (2), no draft of an order under section 101 to give effect to the proposals (with or without modifications) is to be laid before Parliament in accordance with section 101(5) until after the expiry of the period of sixty days beginning with the day on which the document was laid.
- (4) In calculating the period mentioned in subsection (3) no account is to be taken of any time during which—

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- (a) Parliament is dissolved or prorogued, or
  - (b) either House is adjourned for more than four days.
- (5) In preparing a draft order under section 101 the Secretary of State must consider any representations made during the period mentioned in subsection (3).
- (6) A draft order under section 101 which is laid before Parliament in accordance with section 101(5) must be accompanied by a statement of the Secretary of State giving details of—
- (a) any representations considered in accordance with subsection (5), and
  - (b) any changes made to the proposals contained in the document laid before Parliament under subsection (2).
- (7) Nothing in this section applies to an order under section 101 which is made only for the purpose of amending an earlier order under that section—
- (a) so as to extend the earlier order, or any provision of the earlier order, to a particular ITA or to ITAs of a particular description, or
  - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular ITA or to ITAs of a particular description.

## PART 6

### LOCAL AND LONDON CHARGING SCHEMES

VALID FROM 09/02/2009

#### *Involvement of Integrated Transport Authorities*

#### **103 Power of ITAs to make charging schemes**

- (1) Section 163 of the TA 2000 (charging schemes: preliminary) is amended as follows.
- (2) In subsection (3) (authorities by which charging schemes may be made)—
- (a) after paragraph (b) insert—
    - “(bb) jointly by an Integrated Transport Authority and one or more eligible local traffic authorities (“a joint local-ITA charging scheme”);”
  - (b) for “or” at the end of paragraph (c) substitute—
    - “(cc) jointly by an Integrated Transport Authority, one or more eligible local traffic authorities and one or more London traffic authorities (“a joint ITA-London charging scheme”), or”.
- (3) After subsection (4) insert—
- “(4A) In this Part “eligible local traffic authority” means, in relation to any Integrated Transport Authority for an integrated transport area, a local traffic authority which is a council falling within subsection (4B) for—
- (a) an area which lies within the Authority's area,

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- (b) an area which adjoins the Authority's area,
- (c) an area which adjoins an area falling within paragraph (b).

(4B) The councils are—

- (a) a county council in England,
- (b) a council for a non-metropolitan district comprised in an area for which there is no county council,
- (c) a metropolitan district council.”.

#### **104 Local charging schemes to implement policies of ITAs**

(1) Section 164 of the TA 2000 (local charging schemes) is amended as follows.

(2) In subsection (2)—

- (a) after “A local charging scheme” insert “ which has effect wholly outside an integrated transport area ”;
- (b) for “policies in the charging authority's local transport plan” substitute “ local transport policies of the charging authority ”.

(3) After subsection (2) insert—

“(3) A local charging scheme which has effect wholly within an integrated transport area may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of local transport policies of—

- (a) the charging authority, and
- (b) the Integrated Transport Authority for the integrated transport area.

(4) For the purposes of this section and sections 165 and 166—

- (a) a charging scheme has effect wholly outside an integrated transport area if none of the roads in respect of which it is made is in such an area;
- (b) any reference to a charging scheme which has effect wholly, or partly, within an integrated transport area is to be read accordingly.”.

#### **105 Joint local charging schemes to implement policies of ITAs**

(1) Section 165 of the TA 2000 (joint local charging schemes) is amended as follows.

(2) In subsection (2)—

- (a) after “A joint local charging scheme” insert “ which has effect wholly outside an integrated transport area ”;
- (b) for “policies in the charging authorities' local transport plans” substitute “ local transport policies of the charging authorities ”.

(3) After subsection (2) insert—

“(3) A joint local charging scheme which has effect wholly or partly within an integrated transport area may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of local transport policies of—

- (a) the charging authorities, and
- (b) the Integrated Transport Authority for the integrated transport area.



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(4) Section 164(4) has effect for the purposes of this section.”.

#### **106 Joint local-ITA charging schemes**

After section 165 of the TA 2000 (joint local charging schemes) insert—

##### **“165A Joint local-ITA charging schemes**

- (1) A joint local-ITA charging scheme may only be made—
  - (a) in respect of roads for which any of the charging authorities are the traffic authority, and
  - (b) if at least one of the roads in respect of which it is made is within the integrated transport area of the Integrated Transport Authority.
- (2) A joint local-ITA charging scheme may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of local transport policies of the charging authorities.”.

#### **107 Joint local-London charging schemes to implement policies of ITAs**

(1) Section 166 of the TA 2000 (joint local-London charging schemes) is amended as follows.

(2) In subsection (2)—

- (a) after “A joint local-London charging scheme” insert “ which has effect wholly outside an integrated transport area ”;
- (b) for “policies in the local transport plan” substitute “ local transport policies ”;
- (c) omit “the local transport plans of”.

(3) After subsection (2) insert—

“(3) A joint local-London charging scheme which has effect partly within an integrated transport area may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of—

- (a) local transport policies of the non-metropolitan local traffic authority, or the non-metropolitan local traffic authorities, by which the scheme is made,
- (b) local transport policies of the Integrated Transport Authority for the integrated transport area, and
- (c) policies and proposals set out in the transport strategy prepared and published by the Mayor of London under section 142 of the Greater London Authority Act 1999.

(4) Section 164(4) has effect for the purposes of this section.”.

#### **108 Joint ITA-London charging schemes**

After section 166 of the TA 2000 (joint local-London charging schemes) insert—

##### **“166A Joint ITA-London charging schemes**

- (1) A joint ITA-London charging scheme may only be made—

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- (a) in respect of roads falling within subsection (2), and
  - (b) if at least one of the roads in respect of which it is made is within the integrated transport area of the Integrated Transport Authority.
- (2) The roads are—
- (a) roads for which the eligible local traffic authority, or any of the eligible local traffic authorities, by which the scheme is made are the traffic authority, and
  - (b) roads in respect of which the London traffic authority, or any of the London traffic authorities, by which the scheme is made may impose charges by a scheme under Schedule 23 to the Greater London Authority Act 1999 without the consent of the Secretary of State.
- (3) A joint ITA-London charging scheme may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of—
- (a) local transport policies of the eligible local traffic authority, or the eligible local traffic authorities, by which the scheme is made,
  - (b) local transport policies of the Integrated Transport Authority by which the scheme is made, and
  - (c) policies and proposals set out in the transport strategy prepared and published by the Mayor of London under section 142 of the Greater London Authority Act 1999.”.

## **109 Consequential amendments**

Schedule 5 (further amendments relating to the powers of Integrated Transport Authorities in respect of local charging schemes) has effect.

### *Miscellaneous amendments*

VALID FROM 09/02/2009

## **110 Abolition of requirement for confirmation of English schemes**

- (1) Section 169 of the TA 2000 (confirmation of charging schemes) is amended as follows.
- (2) In subsection (1)—
  - (a) after “A charging scheme under this Part” insert “ which relates wholly or partly to Wales ”;
  - (b) for “the appropriate national authority” substitute “ the Welsh Ministers ”.
- (3) In subsection (2) for “the appropriate national authority” substitute “ the Welsh Ministers ”.
- (4) Omit subsection (5).

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VALID FROM 09/02/2009

## 111 Consultation and inquiries for English schemes

- (1) Section 170 of the TA 2000 (charging schemes: consultation and inquiries) is amended as follows.
- (2) For subsection (1) substitute—
  - “(1A) Where the charging authority or any of the charging authorities are—
    - (a) a local traffic authority for an area in England, or
    - (b) an Integrated Transport Authority,that authority or those authorities (acting alone or jointly) must consult such local persons, and such representatives of local persons, as they consider appropriate about the charging scheme.
  - (1B) In subsection (1A)—
    - “local persons” means any persons who are likely to be affected by, or interested in, the making of the scheme;
    - “representatives” means any persons who appear to the charging authority or charging authorities to be representative of local persons.
  - (1C) In any other case, the charging authority or the charging authorities (acting jointly) may, at any time before an order making, varying or revoking a charging scheme under this Part is made, consult such persons as they consider appropriate about the charging scheme, variation or revocation.”.
- (3) In subsection (3)—
  - (a) for “The appropriate national authority” substitute “ The Welsh Ministers ”;
  - (b) in paragraph (a) after “a charging scheme under this Part” insert “ which relates wholly or partly to Wales ”.
- (4) In subsection (4)—
  - (a) for “The appropriate national authority” substitute “ The Welsh Ministers ”;
  - (b) in paragraph (a) after “a charging scheme under this Part” insert “ which relates wholly or partly to Wales ”.
- (5) Omit subsection (5)(b) and the word “and” preceding it.

VALID FROM 09/02/2009

## 112 Charges

- (1) In section 171(5) of the TA 2000 (different charges for different cases) after paragraph (e) insert “, and
  - (f) different methods or means of recording, administering, collecting or paying the charge.”.
- (2) In Schedule 23 to the GLA Act 1999 (road user charging) in paragraph 10(4) (the charges)—

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- (a) after “different charges (which may be no charge) for” insert “ different cases, including (in particular) ”;
- (b) after paragraph (e) insert—
  - “(f) different methods or means of recording, administering, collecting or paying the charge.”.

### 113 Supplementary provision as to charging schemes

(1) Section 172 of the TA 2000 (charging schemes: exemptions etc) is amended as follows.

(2) After subsection (2) insert—

“(2A) The appropriate national authority may by regulations—

- (a) make provision requiring charging schemes under this Part to provide that in specified circumstances—
  - (i) persons of a specified description may pay, and
  - (ii) where those persons so choose, the charging authorities must collect,
 the charges imposed by such schemes in a specified manner;
- (b) make provision for or in connection with the arrangements to be made by charging authorities with any person for the purpose of enabling charges to be paid, and collected, as mentioned in paragraph (a).

(2B) In subsection (2A) “specified” means specified in the regulations.”.

(3) For subsection (3) substitute—

“(3) A road shall not be subject to—

- (a) charges imposed by more than one charging scheme under this Part at the same time;
- (b) charges imposed by such a charging scheme and a scheme under Schedule 23 to the Greater London Authority Act 1999 at the same time, except with the consent of the Authority.”.

(4) In consequence of the amendments made by subsections (1) to (3), the heading to section 172 becomes “ Charging schemes: supplementary provision as to contents ”.

(5) Schedule 23 to the GLA Act 1999 (road user charging) is amended as follows.

(6) In paragraph 9 (the charging area and the roads), at the end of sub-paragraph (4) insert “ , except with the consent of the Authority. ”.

(7) After paragraph 10 (the charges) insert—

#### 10A “Manner of payment of charges

(1) Regulations may—

- (a) make provision requiring a charging scheme to provide that in specified circumstances—
  - (i) persons of a specified description may pay, and
  - (ii) where those persons so choose, the charging authorities must collect,

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- the charges imposed by the scheme in a specified manner;
- (b) make provision for or in connection with the arrangements to be made by the charging authority with any person for the purpose of enabling charges to be paid, and collected, as mentioned in paragraph (a).

(2) In sub-paragraph (1) “specified” means specified in the regulations.”.

#### Commencement Information

**I33** S. 113 partly in force; s. 113(2)(7) in force at Royal Assent for specified purposes, see s. 134(1)(c)

VALID FROM 09/02/2009

### 114 Suspension of charging schemes

After section 172 of the TA 2000 insert—

#### *“Suspension of charging schemes*

##### **172A Suspension of charging schemes**

- (1) The charging authority or the charging authorities (acting jointly) may suspend the operation of a charging scheme under this Part if they consider that it is necessary to do so—
- (a) in the event of an emergency, to enable or facilitate any action taken in response to the emergency;
- (b) to enable or facilitate a temporary event to take place.
- (2) A suspension under this section is for such period as the charging authority or authorities consider necessary—
- (a) in the case of an emergency, to enable or facilitate the response to the emergency (but in any event no longer than 30 days);
- (b) in the case of a temporary event, to enable or facilitate the event to take place, together with any associated works undertaken before or after it.
- (3) A charging scheme may be suspended under this section in whole or in part; and if a scheme is suspended in part that suspension may be in respect of—
- (a) any road in respect of which charges are imposed;
- (b) any event by reference to the happening of which a charge is imposed;
- (c) any class of motor vehicle in respect of which charges are imposed.
- (4) The charging authority or authorities must publish a notice of any suspension under this section.
- (5) A notice under subsection (4)—
- (a) must be published in such manner as the charging authority or authorities consider appropriate to bring the suspension to the attention of all persons who are likely to be affected by it;

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(b) must state the period for which the scheme is to be suspended.

(6) In the case of a suspension under subsection (1)(a), the charging authority or authorities—

- (a) must keep under review the need for the suspension to continue, and
- (b) may increase or reduce the period of the suspension (but they may not increase it so as to suspend the scheme for a period of more than 30 days).”.

VALID FROM 09/02/2009

### 115 Interference with functioning of equipment

- (1) In section 173 of the TA 2000 (penalty charges), in subsection (5)(a) after “interferes with any equipment” insert “, or with the functioning of any equipment, ”.
- (2) In section 174 of the TA 2000 (examination, entry, search and seizure)—
  - (a) in subsection (1)(b) for the words from “or has been interfered with” to the end of the paragraph substitute—
    - “(bb) whether any such equipment, or the functioning of any such equipment, has been interfered with with intent to avoid payment of a charge, or to avoid any person being identified as having failed to pay a charge, or”;
  - (b) in subsection (2)(a) after “has been interfered with” insert “, or the functioning of any such equipment has been interfered with, ”;
  - (c) in subsection (2)(a) and (b) after “to avoid payment of, or” insert “ to avoid any person ”.
- (3) Schedule 23 to the GLA Act 1999 (road user charging) is amended as follows.
- (4) In paragraph 25(1)(a) (offences) after “interferes with any equipment” insert “, or with the functioning of any equipment, ”.
- (5) In paragraph 26 (examination of motor vehicles etc)—
  - (a) in sub-paragraphs (1)(b)(iii) and (2)(a) and (b) after “to avoid payment of, or” insert “ to avoid any person ”;
  - (b) after sub-paragraph (2) insert—
    - “(2A) The references in sub-paragraphs (1)(b)(iii) and (2)(a) to interfering with equipment include references to interfering with the functioning of it.”.

VALID FROM 09/02/2009

### 116 Use of equipment for charging schemes

- (1) Section 176 of the TA 2000 (equipment etc) is amended as follows.
- (2) In subsection (2)—

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- (a) the words from “approve standards for equipment” to the end of the subsection become paragraph (a) of that subsection;
  - (b) after paragraph (a) insert “, or
    - (b) regulate the manner in which such equipment is used.”.
- (3) In subsection (3)—
- (a) the words from “installed for or in connection with” to the end of the subsection become paragraph (a) of that subsection;
  - (b) for “subsection (2)” substitute “ subsection (2)(a) ”;
  - (c) after paragraph (a) insert—
    - “(b) used for or in connection with the operation of such a scheme otherwise than in accordance with regulations under subsection (2)(b).”.
- (4) In Schedule 23 to the GLA Act 1999 (road user charging) paragraph 29 (approval of equipment) is amended as follows.
- (5) In sub-paragraph (1)—
- (a) the words from “the equipment” to the end of the sub-paragraph become paragraph (a);
  - (b) after paragraph (a) insert “, or
    - (b) the equipment is used in accordance with directions given by the Authority.”.
- (6) After sub-paragraph (3) insert—
- “(3A) Where the Secretary of State considers that—
- (a) directions under sub-paragraph (1)(b) above regarding the use of equipment in connection with a charging scheme are incompatible with regulations under section 176(2)(b) of the Transport Act 2000, and
  - (b) the incompatibility is detrimental to the interests of persons resident in England outside Greater London,
- he may give notice of that fact to the Authority.
- (3B) Where the Secretary of State has given notice under sub-paragraph (3A) above to the Authority, the equipment in question may no longer be used in connection with a charging scheme except with the authorisation of the Secretary of State.”.
- (7) In each of sub-paragraphs (4) and (5) after “sub-paragraph (3)” insert “ or (3B) ”.
- (8) In consequence of the amendments made by subsections (5) to (7), the heading preceding paragraph 29 becomes “ Approval of equipment and directions for use ”.

VALID FROM 09/02/2009

## 117 Power of national authority to require information from charging authorities

- (1) After section 177 of the TA 2000 insert—



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#### **“177A Power to require information**

- (1) The appropriate national authority may direct a local traffic authority or Integrated Transport Authority to provide it, within a specified period, with specified information connected with any aspect of the performance or proposed performance of their functions under this Chapter.
  - (2) The information that may be specified in such a direction must be information which the authority have in their possession or can reasonably be expected to acquire.
  - (3) A direction under this section may be given to two or more authorities or to authorities of a description specified in the direction.”.
- (2) In Schedule 23 to the GLA Act 1999 (road user charging) after paragraph 34A (information) insert—

#### **“Power to require information**

- 34B (1) The Secretary of State may direct—
- (a) Transport for London,
  - (b) any London borough council, or
  - (c) the Authority,
- to provide the Secretary of State, within a specified period, with specified information connected with any aspect of the performance or proposed performance of their functions under this Schedule.
- (2) The information that may be specified in such a direction must be information which the body have in their possession or can reasonably be expected to acquire.
  - (3) A direction under this section may be given to two or more of the bodies mentioned in sub-paragraph (1) or to such of those bodies as are specified in the direction.”.

VALID FROM 09/02/2009

### **118 Information: England and Wales**

- (1) Section 194 of the TA 2000 (information) is amended as follows.
- (2) In subsection (1) for the words from “the charging authority or licensing authority” to the end of the subsection substitute “ a traffic authority or Integrated Transport Authority for or in connection with the performance or proposed performance of any of their functions under this Part or with respect to a relevant scheme or proposed relevant scheme ”.
- (3) For subsection (2) substitute—
  - “(2) Information obtained by a traffic authority or Integrated Transport Authority for or in connection with any of their functions other than functions under this Part may be used by them for or in connection with the performance

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or proposed performance of any of their functions under this Part or with respect to a relevant scheme or proposed relevant scheme.”.

(4) In subsection (3) (which provides for the disclosure of information and refers to the charging scheme) for “the” in the second place where it occurs substitute “a”.

(5) After subsection (4) insert—

“(5) The Secretary of State or the Welsh Ministers may charge a reasonable fee in respect of the cost of supplying information under subsection (1) or (3).

(6) Where a traffic authority or Integrated Transport Authority asks the Secretary of State to obtain overseas registration information from an overseas registration authority with a view to the Secretary of State disclosing that information under subsection (1) or (3), the Secretary of State may charge a reasonable fee in respect of the cost of obtaining, or seeking to obtain, the information.

(7) In this section—

“overseas registration authority” means any authority of a country or territory outside the United Kingdom with responsibility under the law of that country or territory for maintaining a register of vehicles;

“overseas registration information” means information derived from particulars contained in a register of vehicles that is maintained by an overseas registration authority;

“relevant scheme” means a charging scheme or licensing scheme under this Part.”.

(6) In Schedule 23 to the GLA Act 1999 (road user charging) paragraph 34A (information) is amended as follows.

(7) In sub-paragraph (1) for the words from “a charging authority” to the end of the sub-paragraph substitute “Transport for London or a London borough council for or in connection with the performance or proposed performance of any of their functions under this Schedule or with respect to a charging scheme or proposed charging scheme”.

(8) For sub-paragraph (2) substitute—

“(2) Information obtained by Transport for London or a London borough council for or in connection with their functions other than their functions under this Schedule may be used by them for or in connection with the performance or proposed performance of any of their functions under this Schedule or with respect to a charging scheme or proposed charging scheme.”.

(9) After sub-paragraph (4) insert—

“(5) The Secretary of State may charge a reasonable fee in respect of the cost of supplying information under sub-paragraph (1) or (3).

(6) Where Transport for London or a London borough council asks the Secretary of State to obtain overseas registration information from an overseas registration authority with a view to the Secretary of State disclosing that information under sub-paragraph (1) or (3), the Secretary of State may

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charge a reasonable fee in respect of the cost of obtaining, or seeking to obtain, the information.

(7) In this paragraph—

“overseas registration authority” means any authority of a country or territory outside the United Kingdom with responsibility under the law of that country or territory for maintaining a register of vehicles;

“overseas registration information” means information derived from particulars contained in a register of vehicles that is maintained by an overseas registration authority.”

VALID FROM 09/02/2009

### 119 Information: Scotland

- (1) The Secretary of State may charge a reasonable fee in respect of the cost of supplying information to—
  - (a) the charging authority, or any of the charging authorities, in relation to a charging scheme made under Part 3 of the Transport (Scotland) Act 2001 (2001 asp 2);
  - (b) any person with whom such an authority has entered into arrangements under section 61(b) of that Act.
- (2) The reference to information in subsection (1) is a reference to information obtained by the Secretary of State in the exercise of any function that relates to reserved matters (within the meaning of the Scotland Act 1998 (c. 46)).

VALID FROM 09/02/2009

### 120 London charging schemes: 10 year plan for share

- (1) In Schedule 23 to the GLA Act 1999 (road user charging) paragraphs 19 to 24 are amended as follows.
- (2) In paragraph 19 (charging authority's 10 year plan for their share of proceeds of scheme) omit sub-paragraphs (3)(a) and (4).
- (3) In paragraph 20 (charging authority's 4 year programme for their share)—
  - (a) omit sub-paragraphs (2)(a), (3) and (4);
  - (b) in sub-paragraph (5) after “prepared and” insert “ (where so required) ”.
- (4) In paragraph 21 (Authority's 10 year plan for the redistributed portion)—
  - (a) in sub-paragraph (2) omit “and submit to the Secretary of State”;
  - (b) omit sub-paragraph (4).
- (5) In paragraph 22 (Authority's 4 year programmes for the redistributed portion)—
  - (a) omit sub-paragraph (3);

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- (b) in sub-paragraph (4) omit “and approved” in both places where those words occur.
- (6) In paragraph 23 (non-compliance with paragraph 20 or 22)—
  - (a) in sub-paragraph (1) after “prepared and” insert “ (where so required) ”;
  - (b) in sub-paragraph (2) omit “and approved”.
- (7) In paragraph 24 (4 year programmes: amendment, replacement and voluntary statements)—
  - (a) in sub-paragraph (1) after “prepared and” insert “ (where so required) ”;
  - (b) in paragraph (c) of sub-paragraph (3), omit the words from “and, if approved” to the end;
  - (c) in sub-paragraph (5)(a) after “prepared and” insert “ (where so required) ”;
  - (d) omit sub-paragraphs (6)(a) and (7);
  - (e) in sub-paragraph (8) after “prepared and” in both places where those words occur insert “ (where so required) ”;
  - (f) in sub-paragraph (10)—
    - (i) after “prepared and” in the first place where those words occur insert “ (where so required) ”;
    - (ii) omit “prepared and approved” in the second place where those words occur;
    - (iii) at the beginning of paragraph (a) insert “ prepared and approved ”;
    - (iv) at the beginning of paragraph (b) insert “ prepared ”.

VALID FROM 09/02/2009

## 121 Other amendments relating to schemes

Schedule 6 (amendments of the financial provisions relating to road user charging and workplace parking levy schemes) has effect.

## PART 7

### MISCELLANEOUS PROVISIONS

VALID FROM 26/01/2009

#### *Trunk road charging schemes in Wales*

## 122 Powers of the National Assembly for Wales

In Part 1 of Schedule 5 to the Government of Wales Act 2006 (c. 32) (Assembly Measures), in field 10 (highways and transport) insert—

“*Matter 10.1* Provision for and in connection with—

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- (a) the making, operation and enforcement of schemes for imposing charges in respect of the use or keeping of motor vehicles on Welsh trunk roads;
- (b) the application of the proceeds of charges imposed under such schemes towards purposes relating to transport.

This does not include provision about traffic signs, apart from provision about the placing and maintenance of traffic signs within the meaning of section 177 of the Transport Act 2000. *Interpretation of this field* In this field—

“motor vehicle” has the meaning given in section 185(1) of the Road Traffic Act 1988, except that section 189 of that Act (exception for certain pedestrian controlled vehicles and electrically assisted pedal cycles) applies as it applies for the purposes of the Road Traffic Acts;

“road” has the same meaning as in the Road Traffic Regulation Act 1984;

“Welsh trunk road” means a road for which the Welsh Ministers are the traffic authority (within the meaning of section 121A of the Road Traffic Regulation Act 1984).”.

## 123 Information

- (1) Information obtained by—
  - (a) any Minister of the Crown or government department, or
  - (b) any local authority or other statutory body,
 may be disclosed to the Welsh Ministers for or in connection with the exercise of any of their functions with respect to a Welsh trunk road charging scheme or proposed such scheme.
- (2) Any information which has been or could be disclosed to the Welsh Ministers under subsection (1) for or in connection with the exercise of any of their functions with respect to a Welsh trunk road charging scheme may be disclosed to any person with whom the Welsh Ministers have entered into charging scheme arrangements.
- (3) Information disclosed to a person under subsection (2)—
  - (a) may be disclosed to any other person for or in connection with the Welsh trunk road charging scheme, but
  - (b) may not be disclosed (either by the person to whom it is disclosed under subsection (2) or by any other person to whom it is disclosed under paragraph (a)) otherwise than for or in connection with the scheme.
- (4) The Secretary of State may charge a reasonable fee in respect of the cost of supplying information under subsection (1) or (2).
- (5) Where the Welsh Ministers ask the Secretary of State to obtain overseas registration information from an overseas registration authority with a view to the Secretary of State disclosing that information under subsection (1) or (2), the Secretary of State may charge a reasonable fee in respect of the cost of obtaining, or seeking to obtain, the information.
- (6) In this section—
 

“charging scheme arrangements” means arrangements made in respect of the operation of a Welsh trunk road charging scheme or relating to the

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installation or operation of any equipment used for or in connection with the operation of such a scheme;

“overseas registration authority” means any authority of a country or territory outside the United Kingdom with responsibility under the law of that country or territory for maintaining a register of vehicles;

“overseas registration information” means information derived from particulars contained in a register of vehicles that is maintained by an overseas registration authority;

“Welsh trunk road charging scheme” means any scheme made by or under an Assembly Measure relating to matter 10.1 in Part 1 of Schedule 5 to the Government of Wales Act 2006 (c. 32).

VALID FROM 26/01/2009

### *Street works*

#### **124 Reinstatement and remedial works**

- (1) The New Roads and Street Works Act 1991 (c. 22) is amended as follows.
- (2) In section 48 (streets, street works and undertakers) after subsection (3) (meaning of “street works”) insert—
  - “(3A) For the purposes of subsection (3), the works that are street works by virtue of being works required for or incidental to street works of any particular kind include—
    - (a) reinstatement of the street, and
    - (b) where an undertaker has failed to comply with his duties under this Part with respect to reinstatement of the street, any remedial works.”.
- (3) In section 50 (street works licences) after subsection (1) (power to grant a licence to do certain works) insert—
  - “(1A) For the purposes of subsection (1), the works that are required for or incidental to works falling within paragraph (a) or (b) of that subsection include—
    - (a) reinstatement of the street, and
    - (b) where an undertaker has failed to comply with his duties under this Part with respect to reinstatement of the street, any remedial works.”.

### *Goods vehicles*

VALID FROM 09/02/2009

#### **125 Vehicles authorised to be used under operator's licence**

- (1) In section 5 of the Goods Vehicles (Licensing of Operators) Act 1995 (c. 23) (vehicles authorised to be used under operator's licence)—

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- (a) in subsection (6), for “a prescribed fee” substitute “ the prescribed fee (if any) ”;
  - (b) in subsection (7), after “the prescribed fee” insert “ (if any) ”.
- (2) Section 263 of the TA 2000 (addition of specified vehicles to operator's licence) is amended as follows.
- (3) In the subsection (6) that is to be substituted for section 5(6) of the Goods Vehicles (Licensing of Operators) Act 1995—
- (a) in the opening words, after “is not authorised to be used under that licence by virtue of subsection (1)” insert “ on or after the relevant day ”;
  - (b) in paragraph (b), for “a prescribed fee” substitute “ the prescribed fee (if any) ”.
- (4) After that subsection insert—
- “(6A) For the purposes of subsection (6) “the relevant day” is the latest of the following days—
- (a) the day on which the vehicle was first in the lawful possession of the licence holder,
  - (b) the day on which the licence came into force,
  - (c) if a day not more than one month after the later of those days is prescribed for the purpose, the day so prescribed.”.

## 126 Vehicles used without operator's licence: power to return detained vehicles

- (1) Schedule 1A to the Goods Vehicles (Licensing of Operators) Act 1995 (c. 23) (detention of vehicles used without operator's licence) is amended as follows.
- (2) For paragraph 8 (power to make regulations for return of detained vehicle) substitute—

“8  
 Regulations may make provision authorising a vehicle detained by virtue of paragraph 2 to be returned to the owner, in prescribed circumstances, without the need for any application under paragraph 9.”.

### Commencement Information

**I34** S. 126 partly in force; s. 126 in force at Royal Assent for specified purposes, see s. 134(1)(c)

VALID FROM 26/01/2009

### *Civil enforcement of traffic contraventions*

## 127 Civil enforcement of traffic contraventions: meaning of “local authority”

- (1) Part 6 of the Traffic Management Act 2004 (c. 18) (civil enforcement of traffic contraventions) is amended as follows.
- (2) In section 76 (civil enforcement officers) at the end insert—



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“(6) In this section “local authority” includes a non-metropolitan district council.”.

(3) In section 85 (prohibition of double parking) at the end insert—

“(9) In this section “local authority” includes a non-metropolitan district council.”.

(4) In section 86 (prohibition of parking at dropped footways etc) at the end insert—

“(10) In this section “local authority” includes a non-metropolitan district council.”.

(5) In section 87 (guidance to local authorities) at the end insert—

“(3) In this section “local authority” includes a non-metropolitan district council.”.

VALID FROM 09/02/2009

## **128 Financial penalty deposits: powers of vehicle examiners in Scotland**

In section 90F of the Road Traffic Offenders Act 1988 (c. 53), in the definition of “conditional offer”, after “75(3)(a)” insert “ or (3B)(a) ”.

VALID FROM 09/02/2009

### *Foreign-registered vehicles*

## **129 Disclosure of information relating to foreign-registered vehicles**

After section 49 of the Road Safety Act 2006 (c. 49) (disclosure to foreign authorities of licensing and registration information) insert—

### **“49A Disclosure of information relating to foreign-registered vehicles**

(1) The Secretary of State may disclose information to which subsection (2) applies to any person or body referred to in subsection (3) (subject to any restrictions mentioned in relation to the person or body).

(2) This subsection applies to information that—

(a) is derived from particulars contained in a register of vehicles that is maintained in a country or territory outside the United Kingdom, and

(b) has been obtained by the Secretary of State from the authority or authorities of that country or territory with responsibility under the law of that country or territory for maintaining the register.

(3) The persons and bodies are—

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- (a) a local authority, where the disclosure is made for any purpose connected with the investigation of—
    - (i) an offence, or
    - (ii) a road traffic contravention;
  - (b) Transport for London, where the disclosure is made for such a purpose;
  - (c) the Department of the Environment in Northern Ireland, where the disclosure is made for any purpose connected with the investigation of an offence;
  - (d) the Department for Regional Development in Northern Ireland, where the disclosure is made for any purpose connected with the investigation of a road traffic contravention;
  - (e) the chief officer of police of a police force in England and Wales;
  - (f) the chief constable of a police force maintained under the Police (Scotland) Act 1967;
  - (g) a member of the Police Service of Northern Ireland;
  - (h) an officer of Revenue and Customs;
  - (i) an inspector of taxes, where the disclosure is made for any purpose connected with any tax liability to which a person is or may be subject, or the amount of any such liability;
  - (j) a person who the Secretary of State is satisfied has reasonable cause for seeking disclosure of the information.
- (4) The Secretary of State may charge a reasonable fee in respect of the cost of—
- (a) obtaining, or seeking to obtain, information falling within subsection (2)(a);
  - (b) supplying information under subsection (1).
- (5) Nothing in this section affects any other power of the Secretary of State to disclose information.
- (6) In this section—
- “local authority” means—
- (a) a county council in England;
  - (b) a metropolitan district council;
  - (c) a non-metropolitan district council for an area for which there is no county council;
  - (d) a London borough council;
  - (e) the Common Council of the City of London;
  - (f) the Council of the Isles of Scilly;
  - (g) a county council or county borough council in Wales;
  - (h) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;
- “road traffic contravention” means—
- (a) in relation to England and Wales, any contravention falling within Schedule 7 to the Traffic Management Act 2004;
  - (b) in relation to Scotland, any act or omission that would have been an offence but for paragraph 1(4) or (as the case may be)

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2(4) of Schedule 3 to the Road Traffic Act 1991 (control of parking in permitted and special parking areas);  
(c) in relation to Northern Ireland, any contravention falling within Schedule 1 to the Traffic Management (Northern Ireland) Order 2005 (2005 No. 1964 (N.I. 14));  
“tax” has the meaning given by section 118(1) of the Taxes Management Act 1970.”.

### **130 Use of information relating to foreign-registered vehicles**

After section 49A of the Road Safety Act 2006 (c. 49) insert—

#### **“49B Use of information relating to foreign-registered vehicles**

- (1) The Secretary of State may use information to which section 49A(2) applies for any of the purposes referred to in subsection (2).
- (2) The purposes are—
  - (a) to check the accuracy of information which has been obtained under regulations made by virtue of section 22A(2) of the Vehicle Excise and Registration Act 1994 (vehicle identity checks);
  - (b) to check the accuracy of records maintained by the Secretary of State in connection with any functions exercisable by the Secretary of State under or by virtue of that Act;
  - (c) to check the accuracy of records maintained, or caused to be maintained, under section 45(6B) or 49(3A) of the Road Traffic Act 1988 (records of examinations of goods and other vehicles);
  - (d) to promote compliance with section 47 or 53 of that Act (obligatory test certificates for goods and other vehicles);
  - (e) where appropriate, to amend or supplement any information mentioned in the foregoing provisions of this subsection or information contained in any records so mentioned;
  - (f) to trace a non-resident parent (within the meaning of the Child Support (Information, Evidence and Disclosure) Regulations 1992 (S.I. 1992/1812)).”.

## **PART 8**

### **SUPPLEMENTARY PROVISIONS**

VALID FROM 09/02/2009

### **131 Repeals**

Schedule 7 contains repeals.

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## 132 Interpretation

In this Act—

- “the TA 1968” means the Transport Act 1968 (c. 73);
- “the PPVA 1981” means the Public Passenger Vehicles Act 1981 (c. 14);
- “the TA 1985” means the Transport Act 1985 (c. 67);
- “the GLA Act 1999” means the Greater London Authority Act 1999 (c. 29);
- “the TA 2000” means the Transport Act 2000 (c. 38).

## 133 Extent

- (1) Subject to subsections (2) and (3), this Act extends to England and Wales only.
- (2) The following provisions also extend to Scotland—
  - (a) sections 1 to 6;
  - (b) section 47 and Schedule 3;
  - (c) sections 53 and 54(1) to (7);
  - (d) sections 55 and 56;
  - (e) sections 57 to 61;
  - (f) section 68(1) and (2);
  - (g) section 72;
  - (h) section 74;
  - (i) section 119;
  - (j) section 122;
  - (k) section 125;
  - (l) section 126;
  - (m) section 128;
  - (n) sections 129 and 130;
  - (o) sections 132, 134, 135 and this section;
  - (p) the repeals in Part 3 of Schedule 7 relating to sections 22 and 23 of the TA 1985, and section 131 so far as relating to those repeals.
- (3) The following provisions also extend to Northern Ireland—
  - (a) section 122;
  - (b) sections 129 and 130;
  - (c) sections 132, 134, 135 and this section.

## 134 Commencement

- (1) The following provisions of this Act come into force on the day on which this Act is passed—
  - (a) section 77(10);
  - (b) this Part, other than section 131 and Schedule 7;
  - (c) any power under or by virtue of this Act to make regulations or an order.
- (2) Sections 55, 56, 122, 123, 124 and 127 come into force at the end of the period of 2 months beginning with the day on which this Act is passed.
- (3) Subject to subsection (4), the other provisions of this Act come into force on an appointed day.

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- (4) Any repeal in Schedule 7 (and section 131 so far as relating to the repeal) comes into force in the same way as the provisions of this Act to which the repeal relates.
- (5) In this section “appointed day” means such day or days as the Secretary of State may by order made by statutory instrument appoint.
- (6) The power conferred by subsection (5) is exercisable as respects Wales by the Welsh Ministers (and not the Secretary of State) in relation to—
  - (a) Part 2;
  - (b) Part 3;
  - (c) in Part 4, sections 64, 65(1), 68 to 71 and 75;
  - (d) in Part 6, the amendments of the TA 2000.
- (7) An order under subsection (5)—
  - (a) may appoint different days for different purposes;
  - (b) may make incidental, consequential, supplemental or transitional provision or savings.

### 135 Short title

This Act may be cited as the Local Transport Act 2008.

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## SCHEDULES

|   |
|---|
| VALID FROM 09/02/2009   |
| <p style="margin: 0;">SCHEDULE 1 <span style="float: right;">Section 7</span></p> <p style="margin: 0;">REFERENCES TO LOCAL TRANSPORT PLANS</p> <p style="margin: 0;">.....</p> |

### SCHEDULE 2

Section 46

#### COMPETITION TEST: AMENDMENTS OF SCHEDULE 10 TO THE TRANSPORT ACT 2000

|   |  |  |
|---|--|--|
| VALID FROM 09/02/2009   |  |  |
| <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20px; vertical-align: top; padding-right: 10px;">1</td> <td>Schedule 10 to the TA 2000 (competition test for exercise of bus functions) is amended as follows.</td> </tr> </table> | 1  | Schedule 10 to the TA 2000 (competition test for exercise of bus functions) is amended as follows. |
| 1   | Schedule 10 to the TA 2000 (competition test for exercise of bus functions) is amended as follows. |  |

|   |  |  |   |  |   |   |   |                          |   |  |
|---|--|--|---|--|---|---|---|--------------------------|---|--|
| VALID FROM 09/02/2009   |  |  |   |  |   |   |   |                          |   |  |
| <p style="text-align: center; margin: 0;"><i>Test for the exercise of functions by local authorities</i></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20px; vertical-align: top; padding-right: 10px;">2</td> <td>For the italic heading preceding paragraph 1 substitute— “ Part 1 Test for exercise of bus functions by local authorities Functions to which this Part of this Schedule applies ”.</td> </tr> <tr> <td style="vertical-align: top; padding-right: 10px;">3</td> <td>                     (1) Paragraph 1 (functions to which Schedule 10 applies) is amended as follows.<br/>                     (2) In sub-paragraph (1) after “The functions to which” insert “ this Part of ”.<br/>                     (3) In sub-paragraph (2)—<br/>                         (a) after “For the purposes of” insert “ this Part of ”;<br/>                         (b) after “a function to which” insert “ this Part of ”.                 </td> </tr> <tr> <td style="vertical-align: top; padding-right: 10px;">4</td> <td>                     (1) Paragraph 2 (competition test) is amended as follows.<br/>                     (2) In sub-paragraph (1)—<br/>                         (a) after “For the purposes of” insert “ this Part of ”;<br/>                         (b) after “a function to which” insert “ this Part of ”.<br/>                     (3) In sub-paragraph (3)(b) omit “substantial”.                 </td> </tr> <tr> <td style="vertical-align: top; padding-right: 10px;">5</td> <td>Omit paragraphs 3 and 4.</td> </tr> <tr> <td style="vertical-align: top; padding-right: 10px;">6</td> <td>In paragraph 5 (investigation by OFT)—</td> </tr> </table> | 2  | For the italic heading preceding paragraph 1 substitute— “ Part 1 Test for exercise of bus functions by local authorities Functions to which this Part of this Schedule applies ”. | 3 | (1) Paragraph 1 (functions to which Schedule 10 applies) is amended as follows.<br>(2) In sub-paragraph (1) after “The functions to which” insert “ this Part of ”.<br>(3) In sub-paragraph (2)—<br>(a) after “For the purposes of” insert “ this Part of ”;<br>(b) after “a function to which” insert “ this Part of ”. | 4 | (1) Paragraph 2 (competition test) is amended as follows.<br>(2) In sub-paragraph (1)—<br>(a) after “For the purposes of” insert “ this Part of ”;<br>(b) after “a function to which” insert “ this Part of ”.<br>(3) In sub-paragraph (3)(b) omit “substantial”. | 5 | Omit paragraphs 3 and 4. | 6 | In paragraph 5 (investigation by OFT)— |
| 2   | For the italic heading preceding paragraph 1 substitute— “ Part 1 Test for exercise of bus functions by local authorities Functions to which this Part of this Schedule applies ”.   |  |   |  |   |   |   |                          |   |  |
| 3   | (1) Paragraph 1 (functions to which Schedule 10 applies) is amended as follows.<br>(2) In sub-paragraph (1) after “The functions to which” insert “ this Part of ”.<br>(3) In sub-paragraph (2)—<br>(a) after “For the purposes of” insert “ this Part of ”;<br>(b) after “a function to which” insert “ this Part of ”. |  |   |  |   |   |   |                          |   |  |
| 4   | (1) Paragraph 2 (competition test) is amended as follows.<br>(2) In sub-paragraph (1)—<br>(a) after “For the purposes of” insert “ this Part of ”;<br>(b) after “a function to which” insert “ this Part of ”.<br>(3) In sub-paragraph (3)(b) omit “substantial”.  |  |   |  |   |   |   |                          |   |  |
| 5   | Omit paragraphs 3 and 4.   |  |   |  |   |   |   |                          |   |  |
| 6   | In paragraph 5 (investigation by OFT)—   |  |   |  |   |   |   |                          |   |  |

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|    |   |
|----|---|
|    | (a) for “the OFT” substitute “the Office of Fair Trading (in this Schedule referred to as “the OFT”);   |
|    | (b) after “a function to which” insert “ this Part of ”.  |
| 7  | In paragraph 10 (decisions) omit paragraph (a).   |
| 8  | Omit paragraph 11.  |
| 9  | In paragraph 12(1) (enforcement of decision) after “a function to which” insert “ this Part of ”.   |
| 10 | In paragraph 13(1) (restriction on disclosure of information) after “its functions under” insert “ this Part of ”.  |
| 11 | In paragraph 14 (offence of disclosing information) after “its functions under” (in both places) insert “ this Part of ”.   |
| 12 | After paragraph 14 insert—  |
|    | <i>“Advice and information</i>  |
|    | 14A(1) As soon as is reasonably practicable after the passing of the Local Transport Act 2008, the OFT must prepare and publish advice and information about—   |
|    | (a) the application of the competition test,  |
|    | (b) the enforcement of decisions regarding that test.   |
|    | (2) The OFT may at any time publish revised, or new, advice or information.   |
|    | (3) Advice and information published under this paragraph must be prepared with a view to—  |
|    | (a) explaining provisions of this Part of this Schedule to persons who are likely to be affected by them, and   |
|    | (b) indicating how the OFT expects such provisions to operate.  |
|    | (4) Advice (or information) published by virtue of sub-paragraph (3)(b) may include advice (or information) about the factors which the OFT may take into account in considering whether, and if so how, to exercise a power conferred on it by this Part of this Schedule. |
|    | (5) Any advice or information published by the OFT under this paragraph is to be published in such form and in such manner as it considers appropriate.   |
|    | (6) If the OFT is preparing any advice or information under this paragraph it must consult such persons as it considers appropriate.”.  |
| 13 | In paragraph 15 (defamation)—   |
|    | (a) after “or notice given” insert “ , and to any advice or information given, ”;   |
|    | (b) after “its functions under” insert “ this Part of ”.  |
| 14 | (1) Paragraph 16 (fees) is amended as follows.  |
|    | (2) In sub-paragraph (1) after “its functions under” insert “ this Part of ”.   |
|    | (3) Omit sub-paragraph (3).   |



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*New test for certain agreements, decisions and practices*

15 After paragraph 16 insert—

**“PART 2**

TEST FOR CERTAIN AGREEMENTS, DECISIONS AND PRACTICES

**Interpretation**

- 17 (1) This paragraph applies for the purposes of the interpretation of this Part of this Schedule.
- (2) A voluntary multilateral agreement (a “VMA”) is a voluntary partnership agreement (within the meaning given by section 153) to which two or more operators of local services are parties.
- (3) A voluntary bilateral agreement (a “VBA”) is a voluntary partnership agreement (within the meaning given by that section) to which only one operator of local services is a party.
- (4) In this Part of this Schedule—
- (a) a “qualifying agreement” is an agreement between bus undertakings only;
  - (b) a “qualifying decision” is so much of any decision by an association of undertakings as relates to the operation of local services;
  - (c) a “qualifying practice” is a concerted practice by bus undertakings only.
- (5) For the purposes of sub-paragraph (4)—
- (a) a bus undertaking is an undertaking which is the operator of a local service;
  - (b) the involvement of a local authority which is not a bus undertaking is to be disregarded;
  - (c) a quality partnership scheme or voluntary partnership agreement is not to be regarded as a qualifying agreement, qualifying decision or qualifying practice.
- (6) In sub-paragraph (5)(b) “local authority” means—
- (a) a local transport authority;
  - (b) a district council in England.
- (7) A provision of this Part of this Schedule which is expressed to apply to, or in relation to, a qualifying agreement is to be read as applying equally to, or in relation to, a qualifying decision or a qualifying practice (but with any necessary modifications).
- (8) A reference to the area of an authority—
- (a) in relation to a VMA or VBA, is a reference to the area of a local transport authority who are a party to the agreement;
  - (b) in relation to a qualifying agreement, is a reference to the area of a local transport authority in whose area the agreement is, or is to be, implemented.

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- (9) The “bus improvement objectives” 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 benefit to users of local services, and
  - (c) reducing or limiting traffic congestion, noise or air pollution.

### **Agreements, decisions and practices to which this Part of this Schedule applies**

- 18 (1) This Part of this Schedule applies to—
- (a) VMAs or VBAs falling within sub-paragraph (2), and
  - (b) qualifying agreements falling within sub-paragraph (3).

This paragraph is subject to paragraph 19.

- (2) A VMA or VBA falls within this sub-paragraph if it has as its object or effect the prevention, restriction or distortion of competition in the area of the authority, or the combined area of the authorities.
  - (3) A qualifying agreement falls within this sub-paragraph if—
    - (a) it has as its object or effect the prevention, restriction or distortion of competition in the area of the authority, or the combined area of the authorities, but
    - (b) the authority, or any of the authorities, has certified that they have considered all the terms and effects (or likely effects) of the agreement and that in their opinion the requirements mentioned in sub-paragraph (4) are satisfied.
  - (4) The requirements are that the agreement—
    - (a) is in the interests of persons using local services within the area of the authority, or the combined area of the authorities, and
    - (b) does not impose on the undertakings concerned restrictions that are not indispensable to the attainment of the bus improvement objectives.
  - (5) For the purposes of sub-paragraph (2)—
    - (a) the object or effect of a VMA may be considered either on its own or together with one or more other VMAs, VBAs or qualifying agreements;
    - (b) the object or effect of a VBA is to be considered together with one or more VMAs, other VBAs or qualifying agreements.
  - (6) For the purposes of sub-paragraph (3) the object or effect of a qualifying agreement may be considered either on its own or together with one or more VMAs, VBAs or other qualifying agreements.
- 19 (1) This Part of this Schedule does not apply to a VMA, VBA or qualifying agreement if it (or any of its provisions) constitutes a price-fixing agreement within the meaning given by section 39(9) of the Competition Act 1998.
- (2) Where the standard of services specified in a VMA or VBA includes any requirement as to maximum fares (see section 153(3)), any provision of that

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agreement relating to the setting, review or revision of the maximum fare is not to be regarded as constituting a price-fixing agreement for the purposes of sub-paragraph (1).

### **The prohibition**

- 20 (1) Any VMA, VBA or qualifying agreement to which this Part of this Schedule applies is prohibited unless it is exempt in accordance with the provisions of this Part of this Schedule.
- (2) The prohibition in sub-paragraph (1) applies in place of the Chapter 1 prohibition.
- (3) The Chapter 1 prohibition is the prohibition imposed by section 2(1) of the Competition Act 1998.

### **Agreements and decisions void**

- 21 Any agreement or decision which is prohibited by paragraph 20 is void.

### **Exempt agreements**

- 22 (1) A VMA, VBA or qualifying agreement to which this Part of this Schedule applies is exempt if—
- (a) it contributes to the attainment of one or more of the bus improvement objectives,
  - (b) it does not impose on the undertakings concerned restrictions which are not indispensable to the attainment of those objectives, and
  - (c) it does not afford the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the services in question.
- (2) In any proceedings in which it is alleged that the prohibition in paragraph 20 is being or has been infringed by a VMA, VBA or qualifying agreement any undertaking or association of undertakings claiming the benefit of sub-paragraph (1) shall bear the burden of proving that the conditions of that sub-paragraph are satisfied.

### **Application of provisions of Competition Act 1998**

- 23 (1) The provisions of Part 1 of the Competition Act 1998 (“the 1998 Act”) specified in sub-paragraph (2) apply in relation to the prohibition in paragraph 20 (and a VMA, VBA or qualifying agreement to which this Part of this Schedule applies) as those provisions apply in relation to the Chapter 1 prohibition (and an agreement to which the provisions of that Chapter apply).
- (2) The provisions are—
- (a) in Chapter 1, sections 3, 6, 8, 10 and 11 (excluded agreements and exemptions);
  - (b) Chapter 3 (investigations and enforcement), except sections 36 to 39 (penalties);
  - (c) in Chapter 4, sections 46 to 49 (appeals);
  - (d) Chapter 5 (miscellaneous), except section 54 (regulators).

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- (3) The application, by virtue of sub-paragraph (2)(d), of Chapter 5 includes section 52(1) of the 1998 Act; but this is subject to the following modifications—
- (a) the reference to the passing of the 1998 Act is to be read as a reference to the passing of the Local Transport Act 2008;
  - (b) the reference to the Director is to be read as a reference to the OFT.
- (4) The application, in accordance with sub-paragraph (1), of the provisions mentioned in sub-paragraph (2) is to be subject to such further modifications as the Secretary of State may by order provide.”

**Commencement Information**

**I35** Sch. 2 para. 15 partly in force; Sch. 2 para. 15 in force at Royal Assent for specified purposes, see s. 134(1)(c)

VALID FROM 09/02/2009

*Schedule heading*

16 In consequence of the amendments made by this Schedule, the heading to Schedule 10 becomes— “ Competition test: functions and agreements relating to buses ”.

SCHEDULE 3

Section 47

DETENTION OF CERTAIN PSVs USED WITHOUT PSV OPERATORS' LICENCES

**Commencement Information**

**I36** Sch. 3 partly in force; Sch. 3 in force at Royal Assent for specified purposes, see s. 134(1)(c)

The Schedule that is to be inserted as Schedule 2A to the PPVA 1981 is as follows—

“SCHEDULE 2A

DETENTION OF CERTAIN PSVs USED WITHOUT PSV OPERATORS' LICENCES

*Interpretation*

- 1 (1) In this Schedule—
- “authorised person” means—
  - (a) an examiner appointed by the Secretary of State under section 66A of the Road Traffic Act 1988, or
  - (b) a person acting under the direction of such an examiner;

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“contents”, in relation to a vehicle, means any goods carried by that vehicle which are not personal effects;

“immobilisation device” means any device or appliance which is an immobilisation device for the purposes of section 104 of the Road Traffic Regulation Act 1984;

“nominated custodian” is to be construed in accordance with paragraph 6(1) below;

“operator”, in relation to a public service vehicle, means—

- (a) the driver, if he owns the vehicle, or
- (b) in any other case, the person for whom the driver works (whether under a contract of employment or any other description of contract personally to do the work),

but this is subject to any regulations that may be made under sub-paragraph (2)(a) below;

“personal effects” means—

- (a) any personal effects of any individual, and
- (b) any articles being carried by a vehicle for the purpose of their delivery from one person to another.

- (2) Regulations may make provision for any purpose of this Schedule or regulations under it as to—
  - (a) the person who is to be regarded as the “operator” of a public service vehicle in such circumstances as may be specified or described in the regulations;
  - (b) the meaning of “owner” as regards a public service vehicle.
- (3) Regulations made by virtue of sub-paragraph (2)(b) above may, in particular, provide that the owner of a motor vehicle at a particular time is to be taken to be any person in whose name the vehicle is then registered by virtue of the Vehicle Excise and Registration Act 1994.

#### *Detention of property*

- 2 (1) Regulations may provide that where an authorised person has reason to believe that a public service vehicle adapted to carry more than 8 passengers is being, or has been, used on a road in contravention of section 12(1) of this Act, the person may detain the vehicle and its contents.
- (2) Regulations made by virtue of sub-paragraph (1) above may not authorise a person other than a constable in uniform to stop a vehicle on any road.

#### *The vehicle and any other property detained, the passengers, and any personal effects*

- 3 (1) Regulations may, in connection with the detaining of a vehicle by virtue of paragraph 2 above, make provision with respect to any of the following—
  - (a) the vehicle;
  - (b) any other property detained or to be detained by virtue of paragraph 2 above;
  - (c) any passengers who have been travelling on the vehicle;
  - (d) any personal effects remaining on the vehicle.

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- (2) Regulations under this paragraph must include provision requiring passengers who have been travelling on the vehicle to be transported in safety to their destination or to a suitable place from which to continue their journey.

#### *Immobilisation of vehicle*

- 4 (1) Regulations may provide that, before a vehicle is removed by virtue of paragraph 6 below, an authorised person may—
- (a) fix an immobilisation device to the vehicle in the place where the vehicle has been detained, or
  - (b) move the vehicle, or require it to be moved, to a more convenient place and fix an immobilisation device to the vehicle in that other place.
- (2) Regulations may also provide—
- (a) that, on any occasion when an immobilisation device is fixed to a vehicle, the person fixing the device must also fix to the vehicle an immobilisation notice (see sub-paragraph (3) below);
  - (b) that a vehicle to which an immobilisation device has been fixed may only be released from the device by or under the direction of an authorised person; and
  - (c) that an immobilisation notice must not be removed or interfered with except by or on the authority of an authorised person.
- (3) In this paragraph “immobilisation notice” means a notice—
- (a) indicating that an immobilisation device has been fixed to the vehicle,
  - (b) warning that no attempt should be made to drive the vehicle or otherwise put it in motion, and
  - (c) giving such other information as may be prescribed.

#### *Offences relating to immobilisation*

- 5 (1) Regulations may provide that a person—
- (a) who removes or attempts to remove an immobilisation device fixed to a vehicle under regulations made by virtue of paragraph 4(1) above, but
  - (b) who is not authorised to do so in accordance with paragraph 4(2)(b) above,
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Regulations may provide that a person who removes or interferes with an immobilisation notice in contravention of regulations made by virtue of paragraph 4(2)(c) above is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

#### *Removal and delivery of property into custody of nominated custodian*

- 6 (1) Regulations may make provision for an authorised person to direct that any property—
- (a) detained by virtue of paragraph 2 above, or
  - (b) consisting of personal effects remaining on a vehicle so detained,
- be removed and delivered into the custody of a person (the “nominated custodian”) specified in the direction.
- (2) Regulations may provide that the nominated custodian must be a person who—

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- (a) is identified in accordance with prescribed rules,
  - (b) has made arrangements with the Secretary of State, and
  - (c) has agreed to accept delivery of the property in accordance with those arrangements.
- (3) Arrangements falling within sub-paragraph (2) above may include provision for the payment of a sum to a person into whose custody any property is delivered.
- (4) Regulations may also provide that an authorised person who has given a direction by virtue of sub-paragraph (1) above in respect of a vehicle may allow the driver of the vehicle to deliver persons or property falling within sub-paragraph (5) below to their destination or some other suitable place, before delivering the vehicle into the custody of the nominated custodian.
- (5) The persons and property are—
- (a) any passengers who have been travelling on the vehicle,
  - (b) any contents of the vehicle,
  - (c) any personal effects remaining on the vehicle.

*Informing persons that their property has been detained etc*

- 7 (1) This paragraph applies in relation to any property—
- (a) which is detained by virtue of paragraph 2 above, or
  - (b) which consists of personal effects that remained on a vehicle so detained.
- (2) Regulations may make provision for informing persons who may be entitled to any such property that it has been so detained or, as the case may be, that it remained on a vehicle so detained.
- (3) The provision that may be made by virtue of sub-paragraph (2) above includes provision requiring—
- (a) the publication by an authorised person of such notices as may be prescribed, and
  - (b) the giving of notice by an authorised person to such persons as may be prescribed.

*Return of vehicle*

- 8 Regulations may make provision authorising a vehicle detained by virtue of paragraph 2 above to be returned to the owner, in prescribed circumstances, without the need for any application under paragraph 9 below.

*Application to traffic commissioner for return of vehicle*

- 9 (1) Regulations must make provision enabling the owner of a vehicle which has been detained by virtue of paragraph 2 above to apply to the traffic commissioner for the area in which the vehicle was detained for the return of the vehicle.
- (2) Regulations may, in particular,—
- (a) require notice of an application to be given to the traffic commissioner within such period as may be determined in accordance with the regulations;
  - (b) require notice of an application to be made in such form as may be prescribed.



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- (3) Regulations must prescribe the grounds upon which the owner may apply for the return of the vehicle.
- (4) The grounds prescribed under sub-paragraph (3) above must include each of the following—
  - (a) that, at the time the vehicle was detained, the person using the vehicle held a PSV operator's licence (whether or not authorising the use of the vehicle);
  - (b) that, at the time the vehicle was detained, the vehicle was not being, and had not been, used in contravention of section 12(1) of this Act;
  - (c) that, although at the time the vehicle was detained it was being, or had been, used in contravention of section 12(1) of this Act, the owner did not know that it was being, or had been, so used;
  - (d) that, although knowing at the time the vehicle was detained that it was being, or had been, used in contravention of section 12(1) of this Act, the owner—
    - (i) had taken steps with a view to preventing that use, and
    - (ii) has taken steps with a view to preventing any further such use.

#### *Hearings by traffic commissioner*

- 10 (1) Regulations must make provision—
  - (a) enabling the traffic commissioner to hold a hearing before determining an application by virtue of paragraph 9 above;
  - (b) requiring the traffic commissioner to hold a hearing, if requested by a person who claims to be the owner;
  - (c) as to the time within which the hearing must be held; and
  - (d) subject to such provision as may be made by the regulations, for the hearing to be held in public.
- (2) Regulations must also provide that, if no hearing is held, the traffic commissioner must determine the application within a prescribed time after receiving notice of the application.

#### *Consequences of the traffic commissioner's determination*

- 11 Regulations must provide that—
  - (a) if the traffic commissioner determines that one of the grounds prescribed by virtue of paragraph 9(3) above is made out, the traffic commissioner must order the nominated custodian to return the vehicle to the owner; and
  - (b) if the traffic commissioner determines that none of those grounds is made out, the vehicle may be sold or destroyed by the nominated custodian, in such manner as may be prescribed.

#### *Appeal to Transport Tribunal from traffic commissioner*

- 12 (1) Regulations must provide for an appeal to the Transport Tribunal against the determination of the traffic commissioner.
- (2) Regulations may—
  - (a) prescribe the period within which an appeal must be made;
  - (b) make provision for notice of any appeal to be given to each of the following—  
the Transport Tribunal,

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the traffic commissioner,  
such other persons as may be prescribed.

*Sale or destruction of vehicle where no application made under paragraph 9*

- 13 Regulations may provide that, if no application is made to the traffic commissioner in accordance with regulations made by virtue of paragraph 9 above, any vehicle detained by virtue of paragraph 2 above may be sold or destroyed in such manner as may be prescribed.

*Return or disposal of contents and personal effects*

- 14 (1) Regulations may provide that the nominated custodian may retain custody of any property falling within sub-paragraph (2) below until—
- (a) the property is returned, in accordance with the regulations, to a person who establishes entitlement to it; or
  - (b) the property is sold or destroyed by the nominated custodian in such manner as may be prescribed.
- (2) The property is—
- (a) any property detained by virtue of paragraph 2 above;
  - (b) any personal effects that remained on the vehicle so detained.
- (3) Regulations may also make provision as to—
- (a) the period within which a person who claims to be entitled to the property may make a claim for its return;
  - (b) the requirements to be satisfied by a person who claims to be entitled to the property (including requirements as to the person's entitlement); and
  - (c) the manner in which entitlement is to be determined where there is more than one claim to the property.
- (4) The nominated custodian may not sell or destroy any property unless—
- (a) such steps as may be required by regulations made by virtue of paragraph 7(2) above have been taken and no person has, before the expiry of the period referred to in sub-paragraph (3)(a) above, established an entitlement to the property; or
  - (b) the condition of the property requires it to be disposed of without delay.

*Custody of property*

- 15 (1) Regulations must provide that while any property is in the custody of a nominated custodian, it is the duty of the nominated custodian to take such steps as are necessary for the safe custody of that property.
- (2) Any such provision is subject to the powers of the nominated custodian to sell or destroy property by virtue of this Schedule.

*Proceeds of sale*

- 16 (1) Regulations must provide for the proceeds of sale of any property sold under regulations made by virtue of paragraph 11(b), 13 or 14(1)(b) above—

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- (a) to be applied towards meeting expenses incurred by any authorised person in exercising functions by virtue of this Schedule; and
  - (b) in so far as they are not so applied, to be applied in such other manner as may be prescribed.
- (2) Regulations may in particular provide for a sum determined in accordance with the regulations to be paid to a person if—
- (a) the person claims, after the sale of property under regulations made by virtue of paragraph 11(b), 13 or 14(1)(b) above, to be or to have been its owner;
  - (b) the claim is made within a prescribed time of the sale; and
  - (c) any other prescribed conditions are fulfilled.

#### *Disputes*

- 17 (1) Regulations may make provision about the proceedings to be followed where a dispute occurs as a result of regulations made by virtue of paragraph 14 or 16 above.
- (2) The provision that may be made by virtue of sub-paragraph (1) above includes provision—
- (a) for an application to be made to a magistrates' court or, in the case of an application made in Scotland, the sheriff;
  - (b) for a court or the sheriff to order a sum to be paid by the Secretary of State.
- (3) Any application made to the sheriff in accordance with regulations made by virtue of sub-paragraph (2)(a) above must be made by way of summary application.

#### *Obstruction of authorised person*

- 18 Regulations may provide that a person who intentionally obstructs an authorised person in the exercise of the powers of such a person under regulations made by virtue of this Schedule is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### *Offences as to securing possession of property*

- 19 (1) Regulations may provide that a person is guilty of an offence if—
- (a) the person makes a declaration with a view to securing the return of a vehicle under regulations made by virtue of paragraph 11 above;
  - (b) the declaration is that the vehicle was not being, or had not been, used in contravention of section 12(1) of this Act; and
  - (c) the declaration is, to the person's knowledge, either false or in any material respect misleading.
- (2) Regulations may provide that a person guilty of such an offence is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; and
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.”.

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VALID FROM 09/02/2009

SCHEDULE 4 Section 77

CHANGE OF NAME OF PTAs: CONSEQUENTIAL AMENDMENTS

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VALID FROM 09/02/2009

SCHEDULE 5 Section 109

ITAs AND CHARGING SCHEMES: MINOR AND CONSEQUENTIAL AMENDMENTS

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VALID FROM 09/02/2009

SCHEDULE 6 Section 121

AMENDMENTS OF FINANCIAL PROVISIONS RELATING TO SCHEMES

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VALID FROM 09/02/2009

SCHEDULE 7 Section 131

REPEALS

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