



Local Transport Act 2008

2008 CHAPTER 26

PART 3

BUS SERVICES

Continuation of quality contracts schemes

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,

Status: Point in time view as at 11/01/2010.

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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;
 - (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.

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- (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),
 - (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)."

Commencement Information

II S. 31 in force at 11.1.2010 for E. by S.I. 2009/3242, art. 2(1)(a)

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.

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- (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
 - (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);

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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.”.

Commencement Information

I2 S. 32 in force at 11.1.2010 for E. by S.I. 2009/3242, art. 2(1)(a)

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),

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- (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).
- (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.”

Commencement Information

I3 S. 33 in force at 11.1.2010 for E. by S.I. 2009/3242, art. 2(1)(a)

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).

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- (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),
- 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.”

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Commencement Information

I4 S. 34 in force at 11.1.2010 for E. by S.I. 2009/3242, art. 2(1)(a)

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
 - (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)).

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- (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.
- (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

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(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.”

Commencement Information

I5 S. 35 partly in force; s. 35 in force at Royal Assent for specified purposes, see s. 134(1)(c)

I6 S. 35 in force at 11.1.2010 for E. in so far as not already in force by S.I. 2009/3242, art. 2(1)(a)

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,

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

Commencement Information

I7 S. 36 in force at 11.1.2010 for E. by S.I. 2009/3242, art. 2(1)(a)

Status:

Point in time view as at 11/01/2010.

Changes to legislation:

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