



# Local Transport Act 2008

## 2008 CHAPTER 26

### PART 3

#### BUS SERVICES

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

#### **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—

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“(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,
- (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—

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- (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,
- 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).

#### Commencement Information

**II** S. 37 in force at 11.1.2010 for E. by [S.I. 2009/3242](#), [art. 2\(1\)\(a\)](#)

### 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),

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- (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, 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

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- 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,
- 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

- I2** S. 38 partly in force; s. 38 in force at Royal Assent for specified purposes, see s. 134(1)(c)
- I3** S. 38 in force at 11.1.2010 for E. in so far as not already in force by [S.I. 2009/3242](#), [art. 2\(1\)\(a\)](#)

### 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.

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- (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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**Commencement Information**

**I4** S. 39 in force at 11.1.2010 for E. by [S.I. 2009/3242](#), [art. 2\(1\)\(a\)](#)

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**Commencement Orders yet to be applied to the Local Transport Act 2008**

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2009/579 art. 2](#) commences (2008 c. 26)
- [S.I. 2009/3294 art. 2](#) commences (2008 c. 26)