

# TRANSPORT (SCOTLAND) ACT 2019

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## EXPLANATORY NOTES

### THE ACT

#### Part 3 – Bus Services

##### Local services franchises

###### Introduction

173. Section 38 of the Act introduces a suite of new provisions into the 2001 Act (section 13A to section 13T) to enable a local transport authority<sup>1</sup> to create and operate local bus services under a franchising model. The model will involve putting in place an overarching franchising framework and then entering into franchise agreements with bus operators in respect of the local services within the area of the framework. The framework will set out the services to be provided, the standards to be met in doing so and any additional facilities that are to be provided in the framework area.
174. A franchising framework under the new provisions in the 2001 Act will have the effect of displacing the standard arrangements for providing local services within the framework area and will prevent operators from providing services in the area otherwise than under a franchise agreement (subject to a few exceptions which are detailed below). Those operators who do enter into franchise agreements to provide services within the scheme will therefore have the exclusive right to operate the local services specified in their agreement.
175. Because of the implications of making a framework, the local transport authority will be required to carry out a comprehensive assessment of the suitability and viability of adopting the proposed model before it is adopted. Many of the provisions in the new chapter 2 are directed at ensuring that this assessment takes place. The chapter also makes provision for an independent audit of the financial implications of any proposed framework as well as requiring that an independent panel must approve the making of the framework. Approval is also required for a framework to be varied or revoked.
176. The franchising model adopted is an update on the Quality Contract approach of the 2001 Act which the new provisions replace. While all the provisions relating to Quality Contracts have been replaced, there are several procedural similarities between the processes for establishing a franchising framework and a Quality Contract scheme so aspects of the process should be familiar. Others have been added to improve the assurance process and, so far as possible, attempt to improve the likely effectiveness of franchising frameworks.
177. Where the new model differs significantly from the Quality Contract model is in the tests that must be satisfied before the framework may be made. Section 13(1) of the 2001 Act allowed a Quality Contract scheme to be made only if:

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<sup>1</sup> Local transport authority is defined in section 82(1) of the 2001 Act. As explained at paragraph 233, two or more local transport authorities may act jointly to put in place a franchising framework.

*These notes relate to the Transport (Scotland) Act 2019  
(asp 17) which received Royal Assent on 15 November 2019*

- it was necessary for the purpose of implementing the local transport authority's relevant general policies in the area to which the proposed scheme related; and
- the proposed scheme would implement those policies in a way which was economic, efficient and effective.

178. Under the new franchising model these tests have been removed. Instead the statutory assessment process will require the local transport authority to consider (among other things) how and to what extent the franchising framework will contribute to the implementation of their relevant general policies and the independent panel will be able to assess whether, in those circumstances, the local transport authority have come to a reasonable conclusion in deciding to make such a framework. This change of approach is designed to increase the range of situations in which a local transport authority can consider the franchising model option.