

# TRANSPORT (SCOTLAND) ACT 2019

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## EXPLANATORY NOTES

### THE ACT

#### Part 3 – Bus Services

##### Information relating to services

Provision of service information when varying or cancelling registration – [section 39](#)  
Overview

237. Section 6 of the 1985 Act and supporting regulations<sup>1</sup> deal with the registration of local services. The section and regulations also deal with the circumstances in which such a registration can be varied or cancelled. Without this registration, a local service cannot be provided by an operator.
238. Section 39 of the Act inserts a series of three new sections into the 1985 Act. These provisions enable any affected authority (see paragraphs 254 to 256 below) to obtain specific service information from an operator who proposes to vary or cancel the registration of a local service and, in limited circumstances, share it with other people who may wish to bid to provide a similar service to the one being withdrawn or varied. Where an operator does not provide the information (or does not provide it timeously) the Scottish Traffic Commissioner will be able to impose a financial penalty on the operator (see section 39(2) of the Act).
239. These new powers to obtain and share information are designed to facilitate more effective competition in the bus market and follows recommendations made by the Competition Commission. The Policy Memorandum which accompanied the Bill for this Act provides full details about this aspect.
240. The new powers should be contrasted with a similar power to obtain information in section 43 of the 2001 Act, which enables a local transport authority to request information at any time in connection with the formulation of their relevant general policies. Though the section 43 power enables a local transport authority to request similar information about passengers, journeys and fares as that under the new provision, it does not allow for requesting revenue information (see paragraph 244 below), nor does it have any particular sanction attached to it for failure to comply. Further, it only requires operators to provide information that they currently have. The new power, however, backed by the ability to make regulations under section 6ZC, requires operators to ensure that they have appropriate records and that they are in a position to share them prior to deciding to change or discontinue a service. If they fail to do so, they may find themselves subject to a variety of sanctions.
241. Further, the material obtained under the section 43 power may not be disclosed where it relates to the affairs of an individual or business during the lifetime of the individual or the existence of the business. Although there are some exceptions (set out in section 43(5)), this is a significant limitation.

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<sup>1</sup> Public Service Vehicles (Registration of Local Services) (Scotland) Regulations 2001 ([SSI 2001/219](#)).

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

242. An additional constraint is that the section 43 power can only be used in relation to the formulation of general policies: it does not assist local transport authorities (and others with similar duties) where they are dealing with a specific service withdrawal and they need to secure an alternative.