

# TRANSPORT (SCOTLAND) ACT 2019

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## EXPLANATORY NOTES

### THE ACT

#### Part 3 – Bus Services

#### Power to require information about local services – section 40

##### Introduction

270. Section 40 adds a new section 35A to the 2001 Act. The provision confers a power on the Scottish Ministers to require bus operators, local transport authorities and the Scottish traffic commissioner to provide information in relation to local services. It also enables Ministers to require persons who are applying for registration of a local service under section 6 of the Transport (Scotland) Act 1985, or applying to vary or cancel such a registration, to provide information in connection with the application.
271. Creating the requirement by way of regulations offers the Scottish Ministers the ability to adapt the requirements to advances in technology and ensure that the level of technical specification is appropriate.

##### Information that may be required about services

272. Subsection (2) of section 40 restricts the Scottish Ministers to requiring information solely for the purpose of facilitating the provision of information to users (and potential users) of buses. This is a different purpose from the other powers to obtain information contained in the 1985 Act and 2001 Act<sup>1</sup>, which are focused on local traffic authorities being able to require information in respect of the formulation of their general policies in relation to bus transport or in connection with their duties to secure a suitable service. Further, information obtained under the other powers is more likely to be commercially sensitive and so is subject to strict limitations on its disclosure.
273. The information that may be required under the new section is set out in subsection (3). There are two elements to this:
- information about routes, timetable, stopping places, fares and tickets (and changes to them); and
  - information about the operation of services including, in particular, real time information about services when they are running.
274. The power also enables the Scottish Ministers to require the information to be provided in a particular format (subsection (4)(c)) and to a particular standard (which may be a standard which changes over time (subsection (6))). The regulations may also require the information to be provided at a particular time or times (subsection (4)(b)). This may be immediately upon the information becoming available.
275. This range of information coupled with the ability to specify format means that the power can be used to create or support services such as Traveline Scotland or bus tracker applications. The provision in subsection (7) in relation to the disclosure of the

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<sup>1</sup> Such as section 43 of the 2001 Act or the new sections 6ZA, 6ZB and 6ZC of the 1985 Act being inserted by the Act.

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

information ensures that the Scottish Ministers are able to specify that the information can be used for these purposes without a charge to bus users for accessing it.

276. The provisions anticipate that it is likely that the local transport authority or traffic commissioner may be better placed to provide certain types of information than operators and so the power caters for that too.

**Recipients of the information**

277. The regulations will specify to whom information is to be provided. By virtue of subsection (5), this may only be the Scottish Ministers, local transport authorities, the Secretary of State, or a specified person (most likely a company or statutory body) who is given responsibility for any system which makes information available to the public.

**Consequences of failure to comply**

278. Where a bus operator does not provide information required under the regulations the traffic commissioner may impose a penalty under section 39(1) of the 2001 Act (by virtue of the amendment of that section by section 40(3) of the Act). The penalty that may be imposed is capped in accordance with section 39(3).

**Consultation**

279. Before making any regulations under this section, the Scottish Ministers must consult a range of interested persons, including those bodies that they think represent the interests of operators of bus services, bus users and local transport authorities. The Scottish Ministers must also consult the Competition and Markets Authority and such other people as they consider appropriate.