



# Transport (Scotland) Act 2001

## 2001 asp 2

### PART 1

#### JOINT TRANSPORT STRATEGIES

#### **1 Joint transport strategies**

- (1) The Scottish Ministers may by order require such public bodies as may be specified in the order to prepare, and submit to them, jointly a strategy—
  - (a) dealing with such matters; and
  - (b) for such purposes,as may be so specified in relation to the discharge of the functions of those bodies relating to transport.
- (2) Before making an order under this section the Scottish Ministers shall consult—
  - (a) the public bodies in respect of which they propose to make the order; and
  - (b) such other persons as they consider appropriate.
- (3) An order under this section may include such provision as respects—
  - (a) the form of the strategy to which it relates;
  - (b) the environmental, social and economic impact of the strategy, and any other matters to which the public bodies are required to have regard in the preparation of the strategy;
  - (c) the procedures relating to the preparation and making of it; and
  - (d) the time within which it is to be submitted,as the Scottish Ministers consider necessary or expedient.
- (4) An order under this section shall include provision requiring the public bodies to which it relates to consult such persons as may be specified in the order.
- (5) Where an order is made under this section, the public bodies to which it relates may consult such other persons as those bodies consider appropriate about the proposed strategy.

*Status: Point in time view as at 10/10/2005.*

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## 2 Directions

- (1) Where an order is made under section 1 of this Act and—
  - (a) no strategy is—
    - (i) prepared; or
    - (ii) submitted,
 as required by that order; or
  - (b) there are, in the opinion of the Scottish Ministers, other exceptional circumstances,
 the Scottish Ministers may give such directions to any public body specified in the order as they think fit.
- (2) Before giving directions to a public body under subsection (1)(b) above the Scottish Ministers shall consult—
  - (a) that public body; and
  - (b) such other persons as they consider appropriate.
- (3) A direction under this section shall be given in writing and may be varied or revoked by the Scottish Ministers.
- (4) This section is without prejudice to section 211 of the Local Government (Scotland) Act 1973 (c.65) (powers of Scottish Ministers on complaint that local authority have failed to perform requirement imposed by or under enactment).

## PART 2

### BUS SERVICES

#### *Quality partnership schemes*

## 3 Quality partnership schemes

- (1) A local transport authority, or two or more such authorities acting jointly, may make a quality partnership scheme covering the whole or any part of their area, or combined area, if they are satisfied that the scheme will—
  - (a) to any extent implement their relevant general policies in the area to which the proposed scheme relates; and
  - (b) either—
    - (i) improve the quality of local services and facilities provided in the area to which the proposed scheme relates in such a way as to bring material benefits to persons using those services and facilities; or
    - (ii) reduce or limit traffic congestion, noise or air pollution.
- (2) A quality partnership scheme may not be made unless the authority have complied with the notice and consultation requirements imposed by section 5 of this Act.
- (3) A quality partnership scheme is a scheme under which—
  - (a) the authority provide, during such periods as may be specified in the scheme, such facilities as may be so specified (in this Part of this Act facilities so specified being referred to as “specified facilities”) in the area to which the scheme relates; and

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- (b) operators of local services who wish to use the specified facilities are required to undertake to provide, during such periods as may be specified in the scheme, local services of such standard as may be specified in the scheme (in this Part of this Act any standard so specified being referred to as the “specified standard”) when using them.
- (4) Any specified facilities—
- (a) shall be provided at such locations within the area to which the scheme relates as may be specified in the scheme along routes served, or proposed to be served, by local services; or
  - (b) shall be facilities which are ancillary to facilities so provided.
- (5) Anything which the authority are required to provide, or secure the provision of, by virtue of section 33 or 34 of this Act may not be a specified facility.
- (6) Any specified standard—
- (a) may include—
    - (i) requirements which the vehicles being used to provide the services shall meet; and
    - (ii) requirements as to the minimum frequency of services; but
  - (b) may not include requirements as to the maximum frequency, or timing, of services.
- (7) If in relation to a proposed scheme the provision of any of the specified facilities requires the making of a traffic regulation order in respect of a road for which the Secretary of State and the Scottish Ministers are the traffic authority (within the meaning of section 121A of the Road Traffic Regulation Act 1984 (c.27)), that proposed scheme may not be made unless it is made by the local transport authority and—
- (a) in a case where the order is to be made by the Secretary of State only, the Secretary of State;
  - (b) in a case where the order is to be made by the Scottish Ministers only, the Scottish Ministers; or
  - (c) in a case where the order is to be made by the Secretary of State and the Scottish Ministers, the Secretary of State and the Scottish Ministers, acting jointly.
- (8) Subject to subsection (9) below, for the purposes of this section (other than subsection (1) above) and sections 5 to 10 of this Act, any reference to a local transport authority shall be construed, in any case where a scheme is made (or proposed to be made)—
- (a) by two or more such authorities acting jointly, as a reference to both (or, as the case may be, all) of those authorities;
  - (b) by virtue of subsection (7)(a) or (b) above by—
    - (i) the Secretary of State or the Scottish Ministers; and
    - (ii) such an authority or two or more such authorities, acting jointly, as a reference to the Secretary of State or, as the case may be, the Scottish Ministers and that authority or, as the case may be, those authorities; or
  - (c) by virtue of subsection (7)(c) above by—
    - (i) the Secretary of State;

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(ii) the Scottish Ministers; and  
 (iii) such an authority or two or more such authorities,  
 acting jointly, as a reference to the Secretary of State, the Scottish Ministers  
 and that authority or, as the case may be, those authorities.

(9) In construing a reference to a local transport authority for the purposes of subsection (7) above and section 10 of this Act, paragraph (b) of subsection (8) above shall be disregarded.

#### **4 Regulations as respects specifying existing facilities in quality partnership schemes**

(1) The Scottish Ministers may by regulations make provision as respects the specifying in quality partnership schemes of facilities which are provided before such schemes are proposed (in this section any such facilities being referred to as “existing facilities”).

(2) The regulations may in particular—

- (a) provide that particular existing facilities or classes of existing facilities may not be specified;
- (b) provide that existing facilities may not be specified if they were provided before such date as may be prescribed by, or determined in accordance with, the regulations;
- (c) provide that particular existing facilities or classes of existing facilities may be specified only in circumstances prescribed by the regulations;
- (d) provide that, in circumstances prescribed by the regulations, particular existing facilities or classes of existing facilities may be specified only with the consent of such person as may be prescribed by, or determined in accordance with, the regulations; and
- (e) make provision modifying any of sections 5 to 7 as those sections apply in relation to schemes, or proposed schemes, which specify existing facilities.

#### **5 Consultation as to proposed quality partnership scheme**

(1) If a local transport authority propose to make a quality partnership scheme, they shall give notice of the proposed scheme in at least one local newspaper circulating in the area to which it relates.

(2) The notice shall—

- (a) set out the authority’s proposals for specified facilities and specified standards; or
- (b) state where, in what form, and at what times, such proposals may be inspected.

(3) If any of the proposed specified facilities would affect a road for which the Secretary of State and the Scottish Ministers are the traffic authority (within the meaning of section 121A of the Road Traffic Regulation Act 1984 (c.27)) the authority shall consult the Secretary of State and the Scottish Ministers before giving notice of the proposed scheme.

(4) After giving notice of the proposed scheme, the authority shall consult—

- (a) all operators of local services who are, in the opinion of the authority, likely to be affected by it;

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- (b) such organisations appearing to the authority to be representative of users of local services as they think fit;
- (c) every other local transport authority any part of whose area is, in the opinion of the authority, likely to be affected by it;
- (d) any—
  - (i) local transport authority (as defined in paragraphs (a) to (c) of section 108(4) of the Transport Act 2000 (c.38)); or
  - (ii) metropolitan district council in England,  
any part of whose area is, in the opinion of the authority, likely to be affected by it;
- (e) the traffic commissioner;
- (f) the chief officer of police for each police area which is to any extent comprised in the area to which the scheme relates; and
- (g) such other persons as the authority think fit.

**Modifications etc. (not altering text)**

C1 S. 5 applied (with modifications) (1.7.2001) by [S.S.I. 2001/218](#), [reg. 5](#)

## 6 Making of quality partnership scheme

- (1) If, having complied with section 5 of this Act, a local transport authority decide that it is appropriate to make a quality partnership scheme, they may make it—
  - (a) in the form proposed; or
  - (b) subject to such modifications as they may specify.
- (2) A scheme shall set out—
  - (a) the specified facilities to be provided by the authority;
  - (b) the specified standard of local services which operators are required to undertake to provide;
  - (c) the date on which it shall come into operation;
  - (d) the period (being a period of more than three, but not more than seven, years) for which it shall remain in operation; and
  - (e) procedures for determining any dispute arising in relation to the scheme between the authority and any operator of local services who has undertaken to provide such services under the scheme.
- (3) A scheme may provide that—
  - (a) local services specified in it; or
  - (b) local services of a class specified in it,are to be excluded from the scheme, subject to such conditions (if any) as may be specified in it.
- (4) Any date specified by virtue of subsection (2)(c) above shall not be earlier than the date by which, in the opinion of the authority, it will be reasonably practicable—
  - (a) for the authority to provide the specified facilities in accordance with the scheme; and
  - (b) for operators of local services to provide the specified standard of services in accordance with the scheme,

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and, in any event, shall not be earlier than whichever is the later of the dates mentioned in subsection (5) below.

- (5) The dates referred to in subsection (4) above are—
- (a) the date 3 months after that on which the scheme is made; and
  - (b) the date 3 months after that on which any traffic regulation order required for the provision of any of the specified facilities is made (or, if more than one such order is required for that purpose, the date on which the last of them is made).
- (6) Not later than 14 days after the date on which a scheme is made, the authority shall give notice—
- (a) in at least one local newspaper circulating in the area to which the scheme relates;
  - (b) to all operators of local services who are, in the opinion of the authority, likely to be affected by the scheme; and
  - (c) to the traffic commissioner.
- (7) The notice shall—
- (a) set out the scheme; or
  - (b) state where, in what form, and at what times, the scheme may be inspected,
- and, if the scheme made is a modified version of that proposed, state that fact.

## 7 Postponement of quality partnership scheme

- (1) If it appears to the local transport authority who made a quality partnership scheme reasonable to do so, they may postpone the date on which the scheme would otherwise come into operation by such period, not exceeding 12 months, as they think fit.
- (2) Before postponing a date under subsection (1) above, an authority shall consult all operators of local services who are, in the opinion of the authority, likely to be affected by the postponement.
- (3) Not later than 14 days after the date on which an authority postpone a date under subsection (1) above the authority shall give notice of the postponement—
  - (a) in at least one local newspaper circulating in the area to which the scheme relates;
  - (b) to all operators of local services who are, in the opinion of the authority, likely to be affected by the postponement; and
  - (c) to the traffic commissioner.

## 8 Effect of quality partnership scheme

- (1) Subject to subsections (2) and (3) below, a local transport authority shall, during such periods as may be specified in the quality partnership scheme, provide such of the specified facilities as are to be provided by them under the scheme.
- (2) Subsection (1) above shall not apply in relation to any period during which the authority are temporarily unable to provide the facilities owing to circumstances beyond their control.
- (3) Subsection (1) above shall not apply in the case of the Secretary of State or, as the case may be, the Scottish Ministers if the Secretary of State is, or the Scottish Ministers

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are, unable to provide the facilities owing to the variation or revocation of a traffic regulation order.

- (4) The operator of a local service may not use the specified facilities unless the operator—
  - (a) has given a written undertaking to the traffic commissioner that the operator will, except in circumstances beyond the operator's control, provide, during such periods as may be specified in the scheme, the local service to the specified standard when using the facilities; and
  - (b) provides the service to that standard when using the facilities.
- (5) Any undertaking given under subsection (4)(a) above shall be treated, during any period when the relevant scheme is in operation, as if it were prescribed particulars registered under section 6 of the 1985 Act (registration of local services) of the service concerned.
- (6) Subsection (4) above shall not apply in relation to services which are excluded from the scheme by virtue of section 6(3) of this Act.
- (7) Where conditions are specified by virtue of section 6(3) of this Act, those conditions shall be treated, during any period when the scheme is in operation, as if they were prescribed particulars registered under section 6 of the 1985 Act of the service concerned.

## **9 Variation or revocation of quality partnership scheme**

- (1) Subject to subsections (3) and (4) below, a local transport authority who made a quality partnership scheme may vary the scheme if they decide that it is appropriate to do so.
- (2) Subject to subsection (4) below, the authority who made a scheme may revoke it if all operators of local services who have given an undertaking such as is mentioned in section 8(4)(a) of this Act consent to the revocation; and such consent shall not be unreasonably withheld.
- (3) If the variation of a scheme under subsection (1) above would require the making of a traffic regulation order, sections 5 and 6 of this Act shall apply to the variation of the scheme as those sections apply to the making of a scheme.
- (4) Sections 5 and 6 of this Act shall apply to any variation (other than a variation which would require the making of a traffic regulation order) under subsection (1) above, or revocation under subsection (2) above, except to the extent that the procedure is modified by regulations made under section 11 of this Act.

## **10 Reports on quality partnership schemes**

- (1) In relation to each quality partnership scheme made by them, a local transport authority shall, for each successive period of 12 months during which the scheme is in operation (the first period being taken to begin on the date on which the scheme comes into operation), prepare and submit to the Scottish Ministers a report on the effectiveness of the scheme.
- (2) In preparing a report under subsection (1) above an authority shall have regard to any representations relating to—
  - (a) local services in their area; and
  - (b) specified facilities,

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made to them during the period to which the report relates.

- (3) An authority may require any operator of a local service to provide such information as the authority may specify for or in connection with the preparation of a report under subsection (1) above; and in so far as the provision of such information would be reasonable, the operator shall comply with any such requirement.
- (4) Any report under this section shall be submitted not later than 6 months after the end of the period to which it relates.
- (5) Before submitting a report under this section the authority shall consult the traffic commissioner in relation to the proposed content of the report.

## 11 Regulations as respects quality partnership schemes

- (1) The Scottish Ministers may by regulations make further provision with respect to—
  - (a) the procedure to be followed when making, varying or revoking quality partnership schemes;
  - (b) specifying any case where no procedure requires to be followed when making, varying or revoking quality partnership schemes;
  - (c) the local services or classes of local services which shall, or may, be excluded from schemes;
  - (d) the conditions which shall, or may, be attached to such exclusions;
  - (e) the form and manner in which undertakings are to be given to the traffic commissioner in connection with schemes;
  - (f) the making of traffic regulation orders in connection with schemes; and
  - (g) such other incidental matters in connection with quality partnership schemes as the Scottish Ministers think fit.
- (2) The regulations may in particular make provision with respect to—
  - (a) giving notice of proposed schemes or proposed variations or revocations of schemes;
  - (b) objections to such proposals;
  - (c) the holding of inquiries or hearings into objections;
  - (d) modifications of such proposals;
  - (e) the form of schemes or variations; and
  - (f) giving notice of schemes which have been made or of variations, or revocations, of schemes.

## 12 Eligibility for service subsidies

In section 63(5) of the 1985 Act (power of local authority to enter into agreement for service subsidies), in paragraph (a)—

- (a) after “question” there shall be inserted “ —(i) ”; and
- (b) after “provided” there shall be inserted “; or
  - (ii) would not be provided to the standard specified in a quality partnership scheme made under section 6 of the Transport (Scotland) Act 2001 (asp 2),”.



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### *Quality contract schemes*

## **13 Quality contract schemes**

- (1) A local transport authority, or two or more such authorities acting jointly, may make a quality contract scheme covering the whole or any part of their area, or combined area, if they are satisfied that—
  - (a) making the proposed scheme is necessary for the purpose of implementing their relevant general policies in the area to which the proposed scheme relates; and
  - (b) the proposed scheme will implement those policies in a way which is economic, efficient and effective.
- (2) In this section (other than subsection (1) above) and, subject to subsection (3) below, in sections 15 to 25 of this Act any reference to a local transport authority shall be construed, in any case where a quality contract scheme is made (or proposed to be made) by two or more such authorities acting jointly, as a reference to both (or, as the case may be, all) of those authorities; and in such a case any reference to the area of an authority shall be construed as a reference to the combined area of those authorities.
- (3) Subsection (2) above shall not apply to sections 17(4), 18(4)(b) and (5) and 23(4) of this Act.
- (4) A quality contract scheme may not be made unless the authority have—
  - (a) complied with the notice and consultation requirements imposed by section 15 of this Act; and
  - (b) obtained the approval of the Scottish Ministers in accordance with section 16 of this Act.
- (5) A quality contract scheme is a scheme under which—
  - (a) the authority determine—
    - (i) what local services should be provided in the area to which the scheme relates;
    - (ii) the standards to which they should be provided;
    - (iii) any additional facilities or services which should be provided in that area; and
  - (b) local services (other than services excluded from the scheme by virtue of provision such as is mentioned in section 14(3) of this Act) may be provided in the area to which the scheme relates only under a quality contract.
- (6) In this Part of this Act “quality contract”, in relation to a quality contract scheme, means an agreement entered into under section 18 or 19 of this Act under which—
  - (a) the authority grant to another person the exclusive right to operate the local services to which the contract relates; and
  - (b) that person undertakes to provide those services on such terms (including in particular as to frequency, fares and standard of service) as may be specified in the agreement.
- (7) A quality contract may—
  - (a) include provision for—
    - (i) the making of payments by the authority to the person undertaking to provide the local service; or

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- (ii) the making of payments by the person undertaking to provide the local service to the authority; or
  - (b) make no such provision as is mentioned in paragraph (a) above.
- (8) A quality contract may include provision requiring one or more of the parties to provide additional facilities or services.
- (9) Section 88(1) of the 1985 Act (application to subsidy agreements of sections 89 to 92 of that Act) shall not apply in relation to quality contracts.

#### **14 Proposed quality contract scheme**

- (1) A proposed quality contract scheme shall specify—
- (a) the area to which the scheme relates;
  - (b) that the scheme shall, in so far as relating to each local service included in it, come into operation—
    - (i) on a date not earlier than six months after the day on which the local traffic authority who made the scheme enter into a quality contract in respect of that service; or
    - (ii) on such earlier date as the authority may specify, (the first date on which the scheme so comes into operation being referred to in this section as the “operational date”); and
  - (c) the period (being a period of more than three, but not more than seven, years beginning on the operational date) during which it is to remain in operation.
- (2) A proposed scheme shall outline—
- (a) the local services which are to be provided under quality contracts; and
  - (b) the features of the proposed invitations to tender for quality contracts.
- (3) A proposed scheme may provide that—
- (a) local services specified in it; or
  - (b) local services of a class specified in it,
- are to be excluded from the scheme, subject to such conditions (if any) as may be specified in it.
- (4) A proposed scheme may contain such ancillary provisions as the authority think fit.
- (5) If a proposed quality contract scheme relates to any extent to the same area as a quality partnership scheme, the quality contract scheme may include provision—
- (a) varying or revoking any such quality partnership scheme which relates only to the area of the authority by which the quality contract scheme is made; or
  - (b) varying any other such quality partnership scheme to the extent that it so relates.
- (6) The Scottish Ministers may by order vary the number of years mentioned in subsection (1)(c) above.

#### **15 Consultation as to proposed quality contract scheme**

- (1) If a local transport authority propose to make a quality contract scheme, they shall give notice of the proposed scheme in at least one local newspaper circulating in the area to which it relates.

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- (2) The notice shall—
- (a) set out the proposed scheme or state where, in what form, and at what times, a copy of it may be inspected; and
  - (b) state the authority's reasons for wishing to make the scheme.
- (3) After giving notice of the proposed scheme, the authority shall consult—
- (a) all operators of local services in the area to which the proposed scheme relates;
  - (b) all persons (other than those falling within paragraph (a) above) holding a PSV operator's licence or a community bus permit who are, in the opinion of the authority, likely to be affected by it;
  - (c) such organisations appearing to the authority to be representative of users of local services as they think fit;
  - (d) every other local transport authority any part of whose area is, in the opinion of the authority, likely to be affected by it;
  - (e) any—
    - (i) local transport authority (as defined in paragraphs (a) to (c) of section 108(4) of the Transport Act 2000 (c.38)); or
    - (ii) metropolitan district council in England,  
any part of whose area is, in the opinion of the authority, likely to be affected by it;
  - (f) the traffic commissioner;
  - (g) the chief officer of police for each police area which is to any extent comprised in the area to which the scheme relates; and
  - (h) such other persons as the authority think fit.
- (4) The authority may modify the proposed scheme following those consultations.

## **16 Approval of proposed quality contract scheme**

- (1) If, having complied with section 15 of this Act, a local transport authority wish to proceed with a proposed scheme, they shall apply to the Scottish Ministers for their approval of the proposed scheme.
- (2) The application shall include—
- (a) the authority's reasons for wishing to make the scheme; and
  - (b) such other information as the Scottish Ministers may reasonably require, having regard to the conditions set out in paragraphs (a) and (b) of section 13(1) of this Act.
- (3) Any person consulted under section 15(3) of this Act may make written representations to the Scottish Ministers about the scheme.
- (4) If the Scottish Ministers are satisfied that it is in the interests of the public that a proposed scheme be made, they may approve it—
- (a) in the form in which it is submitted; or
  - (b) subject to subsection (6) below, subject to such modifications as they may specify.
- (5) In determining what is in the interests of the public for the purpose of subsection (4) above the Scottish Ministers shall have particular regard to the conditions set out in paragraphs (a) and (b) of section 13(1) of this Act.

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- (6) If the Scottish Ministers propose to approve a scheme subject to modifications, they shall first inform the authority and that authority shall—
- (a) consult such of the persons consulted by them under section 15(3) of this Act as are, in the opinion of the authority, likely to be affected by those modifications; and
  - (b) inform the Scottish Ministers of the outcome of that consultation.

## **17 Making of quality contract scheme**

- (1) Where under section 16(4) of this Act, the Scottish Ministers approve a proposed quality contract scheme, the local transport authority who proposed it may, not later than 6 months after the date of the approval, make it as approved.
- (2) Not later than 14 days after the date on which a scheme is made, the authority shall—
  - (a) give notice in at least one local newspaper circulating in the area to which the scheme relates; and
  - (b) send a copy of the scheme to the traffic commissioner.
- (3) The notice shall state—
  - (a) that the scheme has been made; and
  - (b) where, in what form, and at what times, a copy of the scheme may be inspected.
- (4) If a quality contract scheme includes provision such as is mentioned in section 14(5)(b) of this Act varying a quality partnership scheme which was made by two or more authorities so that it no longer so relates, such of those authorities as did not make the quality contract scheme may—
  - (a) subject to the provision so made, if they decide that it is appropriate to do so, vary that quality partnership scheme; or
  - (b) if all operators of local services who have given an undertaking such as is mentioned in section 8(4)(a) of this Act consent to the revocation of the scheme (which consent shall not be unreasonably withheld), revoke that quality partnership scheme;

and subsections (3) and (4) of section 9 of this Act shall apply to a variation or revocation under this section as those subsections apply to a variation or revocation under that section.
- (5) For the purposes of subsection (4) above, any reference to a local transport authority shall be construed as including a reference to the Secretary of State or, as the case may be, the Scottish Ministers.

## **18 Tendering for quality contracts**

- (1) Subject to any regulations under subsection (1), and to subsections (2) and (5), of section 19 of this Act, a local transport authority who have made a quality contract scheme shall not enter into a quality contract otherwise than by accepting a tender invited in pursuance of this section.
- (2) An authority shall, not later than—
  - (a) 3 months; or
  - (b) such other period as the Scottish Ministers may by order specify,

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- after a scheme has been made by them, invite tenders for the provision of local services to which the scheme relates for such period and on such basis as may be specified in the invitation to tender.
- (3) The period specified in the invitation to tender shall not exceed seven years beginning with the operational date of the scheme to which the invitation relates.
- (4) An invitation to tender shall—
- (a) be issued generally, in such manner as the authority consider appropriate for bringing it to the attention of persons who may be interested; and
  - (b) be issued individually to all persons who have given to the authority, or any of the authorities, a written notice—
    - (i) indicating that they wish to receive invitations to tender for the provision of local services of a description to which the invitation relates; and
    - (ii) specifying the address to which such an invitation is to be directed.
- (5) It shall be sufficient for the purposes of subsection (4)(b) above if the authority send the invitation to the person giving such a notice at the address specified in the notice.
- (6) The authority may accept a tender only if it is submitted by a person who is the holder of either—
- (a) a PSV operator’s licence, not being a licence to which a condition is attached under section 26 of the 1985 Act (power of traffic commissioner to attach conditions to licences) prohibiting the holder from using vehicles under the licence to provide local services of all descriptions or of any description to which the invitation relates; or
  - (b) a community bus permit.
- (7) The Scottish Ministers may by regulations make provision requiring local transport authorities to publish such information as may be prescribed in relation to—
- (a) tenders submitted to them in accordance with this section; or
  - (b) their reasons for entering into particular quality contracts.

## **19 Exceptions from section 18(1)**

- (1) The Scottish Ministers may by regulations provide that section 18(1) of this Act shall not apply to quality contracts of such description as may be specified in the regulations; and any such description may be framed by reference to—
- (a) the description of local service to which a quality contract relates;
  - (b) the description of persons proposing to operate a local service;
  - (c) the period during which a local service is to be provided under a contract; or
  - (d) any other relevant circumstances.
- (2) Section 18(1) of this Act shall not apply in any case where it appears to a local transport authority that action is urgently required for the purpose of—
- (a) maintaining an existing local service;
  - (b) securing the provision of a local service in place of any such service that has ceased to operate; or
  - (c) securing the provision of a local service to meet any public transport requirement which has arisen unexpectedly and ought, in the opinion of the authority, to be met without delay.

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- (3) Where by virtue of subsection (2) above any authority enters into a quality contract to which subsection (1) of section 18 of this Act does not apply, that authority shall as soon as practicable invite tenders for the provision of the service which is the subject of that quality contract for such period and on such basis as may be specified in the invitation to tender; and subsections (3) to (7) of that section shall apply in any such case as if the invitation had been issued under subsection (2) of that section.
- (4) Any quality contract entered into by virtue of subsection (2) above shall be made so as to remain in force for no longer than 3 months after the end of the period allowed for the submission of tenders in accordance with the invitation to tender issued under subsection (3) above.
- (5) Subject to subsections (6) and (7) below, where—
- (a) an invitation to tender for the provision of any service is issued under subsection (3) above or subsection (2) of section 18 of this Act; and
  - (b) no tender, or no tender which the authority who issued the invitation consider acceptable, is submitted in response to that invitation,
- any power of that authority to enter into a quality contract in order to secure that service shall cease to be subject to subsection (1) of that section.
- (6) Any quality contract which is entered into by an authority by virtue of subsection (5) above shall be made so as to remain in force for no longer than the period specified in section 18(3) of this Act.
- (7) On entering into a quality contract such as is mentioned in subsection (6) above the authority shall publish in such manner as may be prescribed by regulations made by the Scottish Ministers either—
- (a) a statement that no tender was submitted in response to that invitation to tender; or
  - (b) a statement of their reasons for considering that no tender so submitted was acceptable,
- as the case may require.

## **20 Commencement of quality contract scheme**

- (1) A quality contract scheme shall, in so far as relating to a local service included in it, come into operation—
- (a) where the scheme specifies the date on which, in so far as it relates to such service, it is to come into operation, on the date so specified; and
  - (b) subject to section 21(1) of this Act, where no date is so specified, on such date as is specified in or determined under the quality contract.
- (2) Not later than 14 days after the date on which an authority enter into a quality contract, the authority shall give notice—
- (a) in at least one local newspaper circulating in the area to which the scheme relates;
  - (b) to all operators of local services who are, in the opinion of the authority, likely to be affected by the quality contract; and
  - (c) to the traffic commissioner.
- (3) The notice shall state—
- (a) the local services to be provided under the quality contract;

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- (b) the date (or dates) on which the scheme shall, in so far as it relates to the local services to be provided under that quality contract, come into operation; and
- (c) the duration of the quality contract.

## **21 Postponement of quality contract scheme**

- (1) Subject to any regulations made under subsection (4) below, if it appears to the local transport authority who made a quality contract scheme reasonable to do so, they may postpone the date on which the scheme would, in so far as relating to a local service included in it, come into operation by virtue of section 20(1)(b) of this Act by such period, not exceeding 12 months, as they think fit.
- (2) Before postponing a date under subsection (1) above, an authority shall consult all operators of local services who are, in the opinion of the authority, likely to be affected by the postponement.
- (3) Not later than 14 days after the date on which an authority postpone a date under subsection (1) above the authority shall give notice of the postponement—
  - (a) in at least one local newspaper circulating in the area to which the scheme relates;
  - (b) to all operators of local services who are, in the opinion of the authority, likely to be affected by the postponement; and
  - (c) to the traffic commissioner.
- (4) The Scottish Ministers may by regulations make provision with respect to postponements under subsection (1) above.
- (5) The regulations may in particular make provision—
  - (a) as to the maximum period of postponements; and
  - (b) requiring authorities to reissue invitations to tender in accordance with section 18 of this Act.

## **22 Effect of quality contract scheme**

- (1) During any period when a quality contract scheme is in operation in relation to any local service included in the scheme—
  - (a) sections 6 to 9 of the 1985 Act (registration of local services) shall not have effect in relation to such service; and
  - (b) no such service shall be provided other than under a quality contract.
- (2) If, in relation to a scheme, a local service is neither included in the scheme nor, by virtue of provision such as is mentioned in section 14(3) of this Act, excluded from the scheme, then the local service shall not, during the period beginning on the operational date and ending on the date on which the scheme ceases to have effect, be provided in the area to which the scheme relates.
- (3) Where a scheme specifies conditions such as are mentioned in section 14(3) of this Act, those conditions shall be treated, during the period beginning on the operational date and ending on the date on which the scheme ceases to have effect, as if they were prescribed particulars registered under section 6 of the 1985 Act (registration of local services) of the service concerned.

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## **23 Variation or revocation of quality contract scheme**

- (1) Subject to subsections (5) and (6) below, a local transport authority who made a quality contract scheme may vary it by—
  - (a) increasing, to no greater than the whole of their area, the area to which it relates;
  - (b) adding to the description of local services which are to be provided under quality contracts;
  - (c) reducing the area to which it relates;
  - (d) reducing the description of services which are to be provided under quality contracts;
  - (e) postponing any date specified in the scheme as a date on which the scheme would, in so far as it relates to any local service included in it, otherwise come into operation; or
  - (f) providing for new exclusions from the scheme or for the variation or revocation of existing exclusions.
- (2) A scheme may not be varied under subsection (1)(a) or (b) above unless the conditions set out in paragraphs (a) and (b) of section 13(1) of this Act (in this section referred to as the “relevant conditions”) are met with respect to the scheme as varied.
- (3) A scheme may not be varied under subsection (1)(c) or (d) above unless—
  - (a) either of the relevant conditions is no longer met with respect to it; and
  - (b) both of those conditions are met with respect to the scheme as varied.
- (4) Subject to subsections (5) and (6) below, the authority who made a scheme (or, where a scheme was made by two or more authorities, one of them) may revoke it—
  - (a) if either of the relevant conditions is no longer met with respect to it; or
  - (b) if the authority (or one of them) make (or make jointly with one or more other authorities) a quality contract scheme covering such part of their area as was covered by the scheme being revoked.
- (5) An authority may not, unless they have obtained the approval of the Scottish Ministers to their proposal for a variation or revocation of a scheme under subsection (1) or (4) above, vary or revoke the scheme.
- (6) Where the Scottish Ministers have approved a proposed variation or revocation of a scheme, section 17 of this Act shall apply to that variation or revocation as that section applies to the making of a scheme but subject to such modifications as the Scottish Ministers may by regulations specify.
- (7) The Scottish Ministers may by regulations provide that in such circumstances as may be prescribed quality contract schemes may be revoked by them before coming into operation.

## **24 Reports on quality contract schemes**

- (1) In relation to each quality contract scheme made by them, a local transport authority shall, for each successive period of 12 months during which the scheme is in operation (the first period being taken to begin on the operational date), prepare and submit to the Scottish Ministers a report on the effectiveness of the scheme.
- (2) In preparing a report under subsection (1) above an authority shall have regard to any representations relating to—



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- (a) local services in their area; and
  - (b) any facilities provided by virtue of the scheme, made to them during the period to which the report relates.
- (3) An authority may require any operator of a local service to provide such information as the authority may specify for or in connection with the preparation of a report under subsection (1) above; and in so far as the provision of such information would be reasonable, the operator shall comply with any such requirement.
- (4) Any report under this section shall be submitted not later than 6 months after the end of the period to which it relates.

## **25 Non-implementation of quality contract scheme**

- (1) Where a local transport authority have not, within 12 months of the date on which they made a quality contract scheme, entered into a quality contract in respect of each local service included in the scheme, the scheme shall, subject to subsection (2) below, cease to have effect.
- (2) If within the period mentioned in subsection (1) above an authority seek the approval of the Scottish Ministers to a proposed variation of a scheme and after the expiry of that period—
- (a) the Scottish Ministers refuse to approve the proposed variation; or
  - (b) the Scottish Ministers having approved the proposed variation, the authority fail to comply with section 23(6) of this Act,
- then the scheme shall, on the date of such refusal or, as the case may be, on the date which is six months (or such other period as may, by virtue of that section, be specified) after the date of the approval, cease to have effect.

## **26 Regulations as respects quality contract schemes**

- (1) The Scottish Ministers may by regulations make further provision with respect to—
- (a) the procedure to be followed when making, varying or revoking quality contract schemes;
  - (b) the approval of proposed schemes;
  - (c) the local services or classes of local services which shall, or may, be excluded from schemes;
  - (d) the conditions which shall, or may, be attached to such exclusions; and
  - (e) such other incidental matters in connection with quality contract schemes as the Scottish Ministers think fit.
- (2) The regulations may in particular make provision with respect to—
- (a) the giving of notice of proposed schemes or any proposed variations or revocations of schemes;
  - (b) objections to such proposals;
  - (c) the holding of inquiries or hearings into objections;
  - (d) modifications of such proposals;
  - (e) the form, content and manner of applications for approval of such proposals;
  - (f) the form of schemes or variations; and
  - (g) the giving of notice of schemes which have been made or of variations or revocations of schemes.

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## 27 Transitional provision as respects quality contract schemes

- (1) The Scottish Ministers may by regulations make such transitional provision as they consider appropriate in connection with—
  - (a) the coming into operation of quality contract schemes;
  - (b) the variation of such schemes; and
  - (c) the ending of such schemes (whether or not as a result of their revocation).
- (2) The regulations may in particular provide that in such circumstances as may be prescribed—
  - (a) any provision of sections 6 to 9 of the 1985 Act (registration of local services) which would otherwise have effect—
    - (i) shall not have effect; or
    - (ii) shall have effect subject to such modifications as may be prescribed;
 or
  - (b) any such provision which would not otherwise have effect—
    - (i) shall have effect; or
    - (ii) shall have effect subject to such modifications as may be prescribed, in relation to the whole or any part of the area to which a scheme relates or to any local service provided in that area.

### *Ticketing arrangements and ticketing schemes*

## 28 Ticketing arrangements

- (1) Each local transport authority shall from time to time determine what ticketing arrangements should be made available for their area (in this section referred to as the “required ticketing arrangements”).
- (2) Before making such a determination, the authority shall consult such organisations appearing to the authority to be representative of users of local services as they think fit.
- (3) Each authority shall from time to time ascertain whether the required ticketing arrangements are being made available.
- (4) If an authority ascertain that the required ticketing arrangements are not being made available, that authority shall seek to make arrangements with the operator or operators of the local services concerned under which the operator or operators agree to make the required ticketing arrangements available.
- (5) In this section and in section 29 of this Act “ticketing arrangements” means arrangements under which persons may become entitled—
  - (a) to make more than one journey on particular local services (whether or not operated by the same person);
  - (b) to make a particular journey on two or more local services (whether or not operated by the same person); or
  - (c) where a particular journey could be made on local services provided by either (or any) of two or more operators, to make the journey on whichever service the holder chooses,
 by entering into a single transaction of such description as the operator or operators of such services may require.

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## **29 Ticketing schemes**

- (1) If a local transport authority are unable to make satisfactory arrangements in pursuance of section 28(4) of this Act they, or two or more such authorities acting jointly, may make a ticketing scheme covering the whole or any part of their area, or combined area, if they consider that the proposed scheme—
  - (a) would be in the interests of the public; and
  - (b) would to any extent implement their relevant general policies.
- (2) In this section (other than subsection (1) above) and in sections 30 and 31 of this Act any reference to a local transport authority shall be construed, in any case where a ticketing scheme is made (or proposed to be made) by two or more such authorities acting jointly, as a reference to both (or, as the case may be, all) of those authorities.
- (3) A ticketing scheme is a scheme under which operators of local services of a class specified in the scheme are required to make and implement ticketing arrangements.
- (4) A ticketing scheme may not be made unless the authority have complied with the notice and consultation requirements imposed by section 30 of this Act.
- (5) A ticketing scheme may, for the purposes of making provision in relation to journeys such as are mentioned in paragraph (a) of section 28(5) of this Act, specify a class of local services.
- (6) A ticketing scheme may specify different arrangements in respect of different classes of local service.

## **30 Consultation as to proposed ticketing scheme**

- (1) If a local transport authority propose to make a ticketing scheme, they shall give notice of the proposed scheme in at least one local newspaper circulating in the area to which it relates.
- (2) The notice shall specify the date on which it is proposed that the proposed scheme will come into operation.
- (3) After giving notice of the proposed scheme, the authority shall consult—
  - (a) all operators of local services who are, in the opinion of the authority, likely to be affected by it;
  - (b) such organisations appearing to the authority to be representative of users of local services as they think fit;
  - (c) the traffic commissioner; and
  - (d) such other persons as the authority think fit.

## **31 Making of ticketing scheme**

- (1) If, having complied with section 30 of this Act, the authority decide that it is appropriate to make a ticketing scheme, they may make it—
  - (a) in the form proposed; or
  - (b) subject to such modifications as they may specify.
- (2) The scheme shall specify the date (being a date not earlier than 3 months after the date on which the scheme is made) on which it is to come into operation.

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- (3) Not later than 14 days after the date on which a scheme is made, the authority shall give notice of it—
- (a) in at least one local newspaper circulating in the area to which the scheme relates;
  - (b) to all operators of local services who are, in the opinion of the authority, likely to be affected by it;
  - (c) to the traffic commissioner; and
  - (d) in such other manner, or to such other persons or class of person (if any), as the Scottish Ministers may prescribe by regulations.
- (4) The notice shall—
- (a) set out the scheme and the date on which it is to come into operation; and
  - (b) identify the classes of local service which will be affected by it.

### **32 Effect of ticketing scheme**

- (1) During any period in which a ticketing scheme is in operation, operators of local services to which the scheme relates shall make and implement the arrangements required by the scheme.
- (2) The arrangements required by a ticketing scheme shall be treated, during any period in which the scheme is in operation, as if they were prescribed particulars registered under section 6 of the 1985 Act (registration of local services) of the service concerned.

#### *Provision of information*

### **33 Information about bus services**

- (1) Each local transport authority shall from time to time determine, having regard to their relevant general policies—
  - (a) what local bus information should be made available to the public (in this section referred to as the “required information”); and
  - (b) the way in which it should be made available (in this section and in section 34 of this Act referred to as the “appropriate way”).
- (2) Before making such a determination, the authority shall consult—
  - (a) the traffic commissioner;
  - (b) such organisations appearing to the authority to be representative of users of local services as they think fit; and
  - (c) such other persons as the authority think fit.
- (3) Each authority shall from time to time ascertain whether the required information is being made available to the public in the appropriate way.
- (4) If an authority ascertain that the required information is not being made available to the public in the appropriate way the authority shall seek to make arrangements with the operator or operators of the local services concerned under which the operator or operators agree to make the information available in that way.
- (5) In this section—

“local bus information”, in relation to a local transport authority, means—

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- (a) information about routes and timetabling of local services to, from and within the authority’s area;
  - (b) information about fares for journeys on such local services; and
  - (c) such other information about facilities for disabled persons, travel concessions, connections with other public passenger transport services (within the meaning of the 1985 Act) or other matters of value to the public as the authority consider appropriate in relation to their area; and
- “travel concession” has the meaning given by section 68(7) of this Act.
- (6) This section and sections 34 and 35 of this Act do not apply to any local authority to the extent that any part of the area of the authority is comprised in the passenger transport area of the Strathclyde Passenger Transport Authority.

### **34 Duty of authority to make information available**

- (1) If a local transport authority are unable to make satisfactory arrangements in pursuance of section 33(4) of this Act, they, or two or more such authorities acting jointly—
- (a) shall make available, or secure that there is made available, in such manner as they determine, such information as is not being made available in the appropriate way in their area, or each of their areas (whether by virtue of arrangements made under section 33(4) of this Act or otherwise); and
  - (b) may recover from the operator or operators of the local services concerned the reasonable costs incurred by them in doing so as a civil debt due to them.
- (2) In determining for the purposes of subsection (1)(b) above what is reasonable in relation to a particular operator, the authority, or as the case may be authorities, shall have regard to—
- (a) the amount of information which has to be made available; and
  - (b) the way in which that information has to be made available,
- in respect of the local services provided by that operator.
- (3) If the authority, or as the case may be authorities, require an operator to provide information to them or another person in order to perform their duty under subsection (1)(a) above, the operator shall provide the information at such times and in such manner as may be specified by the authority (or authorities).
- (4) The authority, or as the case may be authorities, shall give notice to the traffic commissioner of any requirement imposed under subsection (3) above.

### **35 Bus information: supplementary**

In carrying out their functions under sections 33 and 34 of this Act, local transport authorities—

- (a) shall act in the manner which is, in the opinion of the authority, most economic, efficient and effective; and
- (b) shall not act in such a way as to discriminate (whether directly or indirectly) against any operator, or class of operator, of local services.

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### *Financial and competition provisions*

## **36 Agreements providing for service subsidies**

- (1) Part V of the 1985 Act (expenditure on public passenger transport services) shall be amended as follows.
- (2) In section 89 (obligation to invite tenders for subsidised services)—
  - (a) in subsection (7), after “section” there shall be inserted “ for the provision of services other than those mentioned in subsection (9) below ”; and
  - (b) after subsection (8) there shall be inserted—
    - “(9) An authority issuing an invitation to tender under this section for the provision of any service for the carriage of passengers by road which requires, for the purposes of Part IV of this Act, a PSV operator’s licence, shall, in determining whether to accept a tender submitted in response to the invitation or which (if any) of several such tenders to accept, have regard in particular to—
      - (a) a combination of economy, efficiency and effectiveness;
      - (b) the implementation of—
        - (i) their local transport strategy; and
        - (ii) the general policies formulated by them under section 63(2)(b) of this Act or section 9A(1) of the Transport Act 1968 (c.73), as the case may be; and
      - (c) the reduction or limitation of traffic congestion, noise or air pollution.
    - (10) In subsection (9)(b)(i) above, “local transport strategy” has the meaning given by section 82(1) of the Transport (Scotland) Act 2001 (asp 2).”.
- (3) In section 90(3) (duty of authority to publish reasons for considering that payment of subsidies to secure service in accordance with accepted tender is conducive to achieving most effective and economic application of funds), for the words from “is conducive” to the end there shall be substituted “ accords with section 89(7), or as the case may be (9), of this Act. ”.
- (4) In section 92(1) (authorities subsidising public passenger transport services not to inhibit competition between persons providing or seeking to provide such services in their area), for the words from “so” to “provide” there shall be substituted “ have regard to the interests of the public and of persons providing ”.

## **37 Competition test for exercise of bus functions**

- (1) The functions to which this section applies are those of—
  - (a) making and varying quality partnership schemes;
  - (b) making and varying ticketing schemes; and
  - (c) inviting and accepting tenders under section 89 or 91 of the 1985 Act (subsidised services).
- (2) For the purposes of this section an authority or authorities propose to exercise a function to which this section applies—

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- (a) in the case of the function of making or varying a quality partnership scheme, once notice of a proposal to make or vary it has been given under section 5(1) of this Act;
  - (b) in the case of the function of making or varying a ticketing scheme, once notice of a proposal to make or vary it has been given under section 30(1) of this Act; and
  - (c) in the case of the function of inviting or accepting tenders under section 89 or 91 of the 1985 Act, once it is proposed to invite tenders under section 89(2) or 91(3) of that Act or to accept or not to accept a tender under section 89 of that Act.
- (3) For the purposes of this section the exercise or proposed exercise of a function to which this section applies meets the competition test unless it—
- (a) has or is likely to have a significantly adverse effect on competition; and
  - (b) is not justified by subsection (4) below.
- (4) The exercise or proposed exercise of a function is justified if—
- (a) it is with a view to achieving one or more of the purposes specified in subsection (5) below; and
  - (b) its effect on competition is or is likely to be proportionate to the achievement of that purpose or any of those purposes.
- (5) The purposes referred to in subsection (4) above are—
- (a) securing improvements in the quality of vehicles or facilities used for or in connection with the provision of local services;
  - (b) securing other improvements in local services of substantial benefit to users of local services; and
  - (c) reducing or limiting traffic congestion, noise or air pollution.

### **38 Grants to bus service operators**

- (1) The Scottish Ministers may make grants to operators of eligible bus services towards their costs in operating those services.
- (2) The Scottish Ministers may make provision by regulations as to the method of calculation of grants.
- (3) Subject to any regulations under subsection (2) above, grants under this section shall be of such amount and subject to such conditions (including conditions requiring their repayment in specified circumstances) as the Scottish Ministers may determine.
- (4) A determination under subsection (3) above may be made either generally or in relation to particular cases or classes of case.
- (5) In this section “eligible bus services” means services of a class using public service vehicles (or such services using a class of public service vehicles) prescribed by regulations made by the Scottish Ministers.
- (6) Section 92 of the Finance Act 1965 (c.25) (grants towards duty charged on bus fuel) and section 111 of the 1985 Act (unregistered and unreliable local services: reduction of fuel duty grant) are repealed.

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### Commencement Information

- II** S. 38 wholly in force; s. 38 not in force at Royal Assent see. 84(2); s. 38(2) in force at 1.4.2001; S.S.I. 2001/132, art. 2 Sch.; s. 38 in force at 1.7.2002 insofar as not already in force by S.S.I. 2002/291 art. 2(a)

## 39 Penalties

- (1) Where the traffic commissioner is satisfied that the operator of a local service has, without reasonable excuse—
  - (a) failed to operate a local service registered under section 6 of the 1985 Act;
  - (b) operated a local service in contravention of that section or section 8(4) or 22(1)(b) or (2) of this Act; or
  - (c) failed to comply with section 32(1) or 34(3) of this Act,
 the commissioner may impose a penalty on the operator.
- (2) Subject to subsection (3) below, a penalty imposed under subsection (1) above shall be of such amount as the traffic commissioner thinks fit in all the circumstances of the case.
- (3) The amount of a penalty mentioned in subsection (2) above shall not exceed—
  - (a) £550; or
  - (b) such other amount as the Scottish Ministers may by order specify,
 multiplied by the total number of vehicles which the operator is licensed to use under all the PSV operator's licences held by him.
- (4) Any penalty imposed under subsection (1) above shall be payable to the Scottish Ministers.
- (5) Where a penalty has been imposed on an operator under subsection (1) above, the traffic commissioner shall forthwith give notice in writing to—
  - (a) the Scottish Ministers; and
  - (b) the operator.
- (6) Any operator on whom a penalty has been imposed under subsection (1) above may appeal to the Transport Tribunal against the imposition of the penalty.
- (7) Any amount due under this section shall be recoverable as a civil debt.

## 40 Repayment of grants towards bus fuel duty

- (1) Section 111 of the 1985 Act (unregistered and unreliable local services: requirement to repay twenty per cent. of bus fuel duty grants) shall be amended as follows (until the coming into force of section 38(6) of this Act).
- (2) For subsection (1) there shall be substituted—
  - “(1) Where the traffic commissioner for the Scottish Traffic Area is satisfied that the operator of a local service has, without reasonable excuse—
    - (a) failed to operate a local service registered under section 6 of this Act;
    - (b) operated a local service in contravention of that section or section 8(4) or 22(1)(b) or (2) of the Transport (Scotland) Act 2001 (asp 2); or



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- (c) failed to comply with section 32(1) or 34(3) of that Act, he may make a determination to that effect.”.
- (3) In subsection (3), for the words “twenty per cent.” there shall be substituted “ such percentage as the traffic commissioner thinks fit ”.
- (4) After subsection (3) there shall be inserted—
- “(3A) The percentage determined under subsection (3) above shall be at least one per cent. but not more than twenty per cent.”.

#### Commencement Information

- I2** S. 40 wholly in force at 1.7.2001; s. 40 not in force at Royal Assent see s. 84(2); s. 40(1)(3)(4) in force at 1.4.2001 and s. 40(2) in force at 1.7.2001 by S.S.I. 2001/132, art. 2 Sch.

#### Miscellaneous

### 41 Bus User Complaints Tribunal

- (1) The Scottish Ministers may by regulations establish a tribunal to be known as the Bus User Complaints Tribunal (referred to in this section as the “Tribunal”) for the purpose of determining any written complaint made by or on behalf of any individual—
- about the manner in which a relevant complaint has been dealt with; or
  - appealing against a decision made on a relevant complaint.
- (2) Any Tribunal established by virtue of subsection (1) above shall consist of—
- a convener; and
  - two other members,
- appointed by the Scottish Ministers.
- (3) Regulations under subsection (1) above may in particular make provision for or in connection with—
- the form of written complaints and the time within which they may be submitted for determination by the Tribunal;
  - the procedure to be followed by the Tribunal in determining complaints;
  - the matters to which the Tribunal shall have regard in determining complaints;
  - the powers of the Tribunal on making determinations (including, without prejudice to the generality of this paragraph, power requiring the payment of compensation);
  - the tenure of office of members of the Tribunal;
  - the payment of remuneration and allowances to members of the Tribunal;
  - the making of reports to the Scottish Ministers on such matters, and at such times, as may be specified in the regulations;
  - requiring the Scottish Ministers to lay before the Scottish Parliament copies of any reports made under paragraph (g) above;
  - the making of reports to the traffic commissioner on such matters, and at such times, as may be specified in the regulations;
  - appeals from determinations of the Tribunal;

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- (k) such other matters as the Scottish Ministers consider necessary or expedient for the purpose of enabling the Tribunal to perform its functions.
- (4) Where a Tribunal is established by virtue of subsection (1) above, the traffic commissioner shall—
- (a) provide, or make available, to the Tribunal such staff as the Scottish Ministers consider necessary;
  - (b) pay—
    - (i) any remuneration and allowances due to members of the Tribunal or staff of the Tribunal; and
    - (ii) any other expenses relating to the establishment or operation of the Tribunal; and
  - (c) provide the Tribunal with such other assistance as it may reasonably request for the purposes of performing its functions.
- (5) Any compensation payable by virtue of subsection (3)(d) above shall be recoverable as a civil debt.
- (6) The Scottish Ministers shall pay to the traffic commissioner such amount as is agreed between them to be appropriate to reimburse any expenditure incurred by the commissioner by virtue of subsection (4) above.
- (7) In subsection (1) above “relevant complaint” means any written complaint made by or on behalf of any individual to an operator of [<sup>F1</sup>bus] services which relates to the operation of any [<sup>F1</sup>bus] service operated by such operator.
- [<sup>F2</sup>(8) In subsection (7) above, “bus service” means—
- (a) a local bus service; or
  - (b) a service which—
    - (i) uses one or more public service vehicles for the carriage of passengers by road at separate fares;
    - (ii) operates between places at least one of which is in Scotland; and
    - (iii) is not a local service.]

#### Textual Amendments

- F1** Word in s. 41(7) substituted (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 50(a)**, 54(2); S.S.I. 2005/454, art. 2, Sch. 2
- F2** S. 41(8) inserted (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 50(b)**, 54(2); S.S.I. 2005/454, art. 2, Sch. 2

## 42 Traffic regulation conditions to reduce or limit noise or air pollution

In subsection (4) of section 7 of the 1985 Act (reasons for which traffic regulation conditions may be determined)—

- (a) the word “or” immediately after paragraph (a) is repealed; and
- (b) after paragraph (b) there shall be inserted “; or
- (c) reduce or limit noise or air pollution.”.

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### **43 Power to obtain information about local services**

- (1) A local transport authority may, in connection with the formulation of their relevant general policies, require an operator of local services to provide them with any information relating to the matters mentioned in subsection (2) below which is in the possession or control of the operator; and the operator shall comply with any such requirement.
- (2) The matters are—
  - (a) the total number of journeys undertaken by passengers on the local services operated by the operator in the authority's area or any part of such area;
  - (b) the structure of fares for those journeys; and
  - (c) the total distance covered by vehicles used by the operator in operating those local services.
- (3) An operator may be required to provide information under this section in any form in which, having regard to the manner in which the information is kept, it is reasonable to expect the operator to provide it.
- (4) Subject to subsection (5) below, no information which—
  - (a) has been provided to a local transport authority under this section, or provided together with information so provided; and
  - (b) relates to the affairs of an individual or to a particular business,shall be disclosed by such authority during the lifetime of the individual or while the business continues to be carried on.
- (5) Subsection (4) above does not apply to a disclosure—
  - (a) made with the consent of the individual or the person for the time being carrying on the business;
  - (b) of information provided by virtue of section 10(3) or 24(3) of this Act;
  - (c) made in connection with the investigation of crime or for the purposes of criminal proceedings;
  - (d) made for the purposes of civil proceedings brought by virtue of this Act or the 1985 Act;
  - (e) made in order to comply with the order of a court or tribunal; or
  - (f) made in respect of a local service—
    - (i) if the operator of such service has given notice in writing to the local transport authority or the traffic commissioner of the operator's intention to cease operating such service from a date specified in the notice; or
    - (ii) if, having failed to provide notice such as is mentioned in subparagraph (i) above, such operator has ceased to operate such service.
- (6) A local transport authority who, without reasonable excuse, disclose information in contravention of subsection (4) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) Where an offence under subsection (6) above committed by a local transport authority is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a person employed by the authority, the person as well as the authority is guilty of the offence and liable to be proceeded against and punished accordingly.

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#### **44 Civil penalties for bus lane contraventions**

- (1) The Scottish Ministers may by regulations make provision for or in connection with—
  - (a) the imposition by approved local authorities of charges in respect of bus lane contraventions; and
  - (b) the payment of such charges.
- (2) An authority is an approved local authority if—
  - (a) an order designating the whole or any part of their area has been made under paragraph 1(1)(d) or 2(1)(c) of Schedule 3 to the Road Traffic Act 1991 (c.40) (permitted and special parking areas outside London); and
  - (b) the Scottish Ministers have made an order specifying them as an approved local authority for the purposes of this section.
- (3) A bus lane contravention is a contravention of any such provision of—
  - (a) a traffic regulation order;
  - (b) an experimental traffic order; or
  - (c) a temporary traffic restriction order,as relates to the use of an area of road which is or forms part of a bus lane.
- (4) For the purposes of subsection (3) above, an area of road is or forms part of a bus lane if the order in question provides that it may be used—
  - (a) only by buses; or
  - (b) only by buses and some other class or classes of traffic specified in the order.
- (5) Regulations under subsection (1) above shall include provision—
  - (a) for the setting of the rates of charges (which may include provision for surcharges or discounts) by approved local authorities;
  - (b) that any rates set by virtue of paragraph (a) above shall be effective only if they have been approved by the Scottish Ministers;
  - (c) specifying that any charge shall be paid—
    - (i) by the registered keeper of the motor vehicle; or
    - (ii) in such circumstances as may be specified in the regulations, by such other person as may be so specified;
  - (d) permitting the imposition of a charge only on the basis of a record produced by an approved device;
  - (e) securing that a charge in respect of a bus lane contravention shall not require to be paid, or shall be refunded, where—
    - (i) the contravention is the subject of criminal proceedings; or
    - (ii) a fixed penalty notice has been given in respect of the contravention;and
  - (f) that any sums paid by way of charges to an approved local authority shall be available only for application by such authority for the purpose of directly or indirectly facilitating the achievement of policies in such authority's local transport strategy.
- (6) Regulations under subsection (1) above may—
  - (a) specify exemptions from charges; and
  - (b) make provision about the keeping of accounts, and the preparation and publication of statements of account, relating to sums paid by way of charges.

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- (7) The Scottish Ministers may make regulations about the notification, adjudication and enforcement of charges.
- (8) Regulations under subsection (7) above may include—
- (a) provision creating criminal offences to be triable summarily and punishable with a fine not exceeding level 5 on the standard scale or such lower amount as may be prescribed by the regulations; and
  - (b) provision for or in connection with permitting sufficient evidence of a fact to be given by the production of a record produced by an approved device with a certificate as to the circumstances in which the record was produced, but may not confer power to stop motor vehicles.
- (9) In this section—
- “approved device” means a device of a description specified in an order made for the purposes of this section by the Scottish Ministers;
  - “experimental traffic order” means an order under section 9 of the Road Traffic Regulation Act 1984 (c.27);
  - “fixed penalty notice” has the same meaning as in Part III of the Road Traffic Offenders Act 1988 (c.53); and
  - “temporary traffic restriction order” means an order under section 14 or 16A of the Road Traffic Regulation Act 1984 (c.27).

#### **45 Registered services: minimum period of operation**

In section 6 of the 1985 Act (registration of local services)—

- (a) in subsection (3), for the words “subsection (2) above” there shall be substituted “this section”; and
- (b) after subsection (8) there shall be inserted—

“(8A) Where a service is registered under this section or, as the case may be, a registration is varied under this section, the operator of the service which has been registered, or in respect of which the registration has been varied, shall provide that service for a period of at least 90 days (or, as the case may be, such other period as the traffic commissioner may specify) beginning with the day on which the period of notice expires or, as the case may be, the variation becomes effective.”.

#### **46 Power to restrict dates on which scheduled timings of local services may be varied**

In section 6 of the 1985 Act (registration of local services)—

- (a) after paragraph (d) of subsection (9) there shall be inserted—
    - “(da) subject to subsection (10) below, specifying dates as the only dates on which the operator of a local service in the area (or areas) of such local authority (or authorities) as may be specified in the regulations may vary a registration in so far as it relates to the scheduled times of the local service in respect of which the registration is made;”;
- and
- (b) after subsection (9) there shall be inserted—

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- “(10) Regulations making provision such as is mentioned in subsection (9) (da) above may not—
- (a) have effect for a period of more than three years;
  - (b) specify more than four dates in a calendar year as dates on which a registration may be varied.”.

#### 47 Co-operation

- (1) In considering whether to make a quality partnership scheme, quality contract scheme or ticketing scheme a local transport authority shall have regard to the desirability, in appropriate cases, of making a scheme jointly with another authority.
- (2) A local transport authority shall, in determining their opinion under paragraph (a) of section 35 of this Act, have regard to the desirability, in appropriate cases, of carrying out their functions under sections 33 and 34 of this Act jointly with another authority (whether as respects the whole or any part of their combined area).
- (3) Local transport authorities shall in carrying out their functions—
  - (a) under this Part of this Act in relation to quality partnership schemes, quality contract schemes and ticketing schemes; and
  - (b) under sections 33 and 34 of this Act,
 co-operate with one another.

#### *Interpretation of Part*

#### 48 Interpretation of Part 2

- (1) In this Part of this Act—
  - “community bus permit” means a permit under section 22 of the 1985 Act;
  - “local service” has the meaning given by section 2 of the 1985 Act;
  - “operational date” shall be construed in accordance with section 14(1) of this Act;
  - “police area” means a police area within the meaning of section 1(2) of the Police (Scotland) Act 1967 (c.77);
  - “quality contract” has the meaning given by section 13(6) of this Act;
  - “relevant general policies”, in relation to a local transport authority, means the authority’s local transport strategy and—
    - (a) where the authority is a local authority,
      - [<sup>F3</sup>(i)] the policies formulated by them from time to time under section 63(2)(b) of the 1985 Act;
      - [<sup>F4</sup>(ii)] any policies formulated by them from time to time in accordance with that strategy which, were the area to which those policies relate not in a passenger transport area, could have been formulated by them under that provision and which relate to matters which may be the subject matter of a quality partnership scheme or a quality contract scheme;]
    - (b) where the authority is the Strathclyde Passenger Transport Authority, the policies formulated by them from time to time under section 9A(1) of the Transport Act 1968 (c.73);

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“specified facilities” shall be construed in accordance with section 3(3)(a) of this Act;

“specified standard” shall be construed in accordance with section 3(3)(b) of this Act;

“traffic commissioner” means the person appointed from time to time to be the commissioner for Scotland under section 4 of the Public Passenger Vehicles Act 1981 (c.14); and

“traffic regulation order” means an order under—

- (a) the Road Traffic Regulation Act 1984 (c.27); or
- (b) any other enactment (other than this Act),

regulating the use of roads or other places by public service vehicles.

(2) In this Part of this Act the following expressions have the same meaning as in the Public Passenger Vehicles Act 1981 (c.14)—

“fares”;

“modification”;

“public service vehicle”; and

“PSV operator’s licence”.

(3) References in this Part of this Act to the operator of a passenger transport service of any description are to be construed in accordance with section 137(7) of the 1985 Act.

#### Textual Amendments

- F3** Word in s. 48(a) inserted (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 51(2)(a)**, 54(2); [S.S.I. 2005/454](#), [art. 2](#), [Sch. 2](#)
- F4** S. 48(a)(ii) and preceding word inserted (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 51(2)(b)**, 54(2); [S.S.I. 2005/454](#), [art. 2](#), [Sch. 2](#)

## PART 3

### ROAD USER CHARGING

#### *Road user charging schemes*

#### 49 Charging schemes

- (1) A charging scheme may be made by a local traffic authority or by two or more such authorities acting jointly.
- (2) A charging scheme may be made only in respect of roads for which the charging authority, or either (or any) of the charging authorities, are the local traffic authority.
- (3) A charging scheme may be made only if—
  - (a) the charging authority, or each of the charging authorities, proposing to make the scheme have a local transport strategy; and
  - (b) the scheme appears desirable to the authority, or each of them, for the purpose of directly or indirectly facilitating the achievement of policies in their strategy.

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- (4) Charges imposed in respect of any motor vehicle by a charging scheme shall be paid—
- (a) by the registered keeper of the motor vehicle; or
  - (b) in such circumstances as the Scottish Ministers may by regulations specify, by such other person as may be so specified.

- (5) In this Part of this Act—

“charging authority”, in relation to a charging scheme made or proposed to be made by one authority, means the authority by which the charging scheme is or is proposed to be made;

“charging authorities”, in relation to a charging scheme made or proposed to be made jointly by more than one authority, means the authorities by which the charging scheme is or is proposed to be made; and

“charging scheme” means a scheme for imposing charges in respect of the use or keeping of motor vehicles on roads.

## **50 Charging schemes to be made, varied and revoked by order**

- (1) A charging scheme shall be contained in an order made by the charging authority or the charging authorities (acting jointly).
- (2) Any charging scheme may be varied or revoked by order made by the charging authority or authorities (acting jointly) who made the scheme.
- (3) The Scottish Ministers may by regulations make provision as respects orders made under this section, including (in particular)—
  - (a) provision specifying the form of orders;
  - (b) provision about consultation on proposals for orders (including the publication of such proposals and the making and consideration of objections to proposals); and
  - (c) provision about the publication of notice of orders and of their effect.

## **51 Confirmation of orders**

- (1) A charging scheme shall not come into force unless the order making it has been submitted to and confirmed by the Scottish Ministers; and a variation or revocation of such a charging scheme shall not take effect until the order making the variation or revocation has been so submitted and confirmed.
- (2) Subsection (1) above shall not apply in such circumstances as may be specified in, or determined in accordance with, regulations made by the Scottish Ministers.
- (3) Where confirmation of an order is required by this section, the order may be confirmed by the Scottish Ministers—
  - (a) in the form in which it is submitted; or
  - (b) subject to such modifications as they may specify.

## **52 Charging schemes: consultation and inquiries**

- (1) Before an order making, varying or revoking a charging scheme is made, the charging authority or charging authorities (acting jointly)—



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- (a) shall consult such persons as may be specified in regulations made under section 50(3) of this Act; and
  - (b) may consult such other persons as they think fit, about the scheme or, as the case may be, the variation or revocation.
- (2) Where an order making, varying or revoking a charging scheme is submitted to the Scottish Ministers under section 51 of this Act they may at any time before the order is confirmed—
  - (a) consult; or
  - (b) require the charging authority or authorities to consult, other persons about the charging scheme or, as the case may be, the variation or revocation.
- (3) The Scottish Ministers—
  - (a) may cause an inquiry to be held in relation to a charging scheme, or the variation or revocation of such a scheme; and
  - (b) may appoint the person or persons by whom such an inquiry is to be held.
- (4) The charging authority or charging authorities (acting jointly)—
  - (a) may cause an inquiry to be held in relation to a charging scheme proposed to be made by them, or the proposed variation or proposed revocation of a charging scheme made by them; and
  - (b) may appoint the person or persons by whom such an inquiry is to be held.
- (5) Without prejudice to the generality of subsection (3) above, the Scottish Ministers may by regulations specify circumstances in which a charging authority or charging authorities (acting jointly) shall cause an inquiry to be held in relation to a charging scheme proposed to be made by them, or the proposed variation or proposed revocation of a charging scheme made by them.
- (6) Subsections (3) to (8) of section 210 of the Local Government (Scotland) Act 1973 (c.65) (witnesses and costs at inquiries) shall apply in relation to any inquiry held by virtue of this section.

## **53 Matters to be dealt with in charging schemes**

- (1) A charging scheme shall—
  - (a) designate the roads in respect of which charges are imposed;
  - (b) specify or describe the events by reference to the happening of which a charge is imposed in respect of a motor vehicle being used or kept on a road;
  - (c) specify the classes of motor vehicles in respect of which charges are imposed;
  - (d) specify the classes of motor vehicles which are exempt from charges or in respect of which reduced rates of charges are imposed;
  - (e) specify the charges imposed;
  - (f) specify the period during which it is to remain in force; and
  - (g) make provision for or in connection with the collection, payment and recording of charges.
- (2) Subject to section 49(2), and to any modifications made by virtue of section 51(3)(b), of this Act, the designation of the roads in respect of which charges are imposed by a charging scheme shall be such as the charging authority or authorities may determine.

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- (3) No charge may be imposed by a charging scheme in respect of the keeping of a motor vehicle on a road unless such charge also has effect in respect of the use of the motor vehicle on that road.
- (4) The charges that may be imposed by a charging scheme include different charges (which may be no charge) for different cases, including (in particular)—
  - (a) different days;
  - (b) different times of day;
  - (c) different roads;
  - (d) different distances travelled;
  - (e) different purposes for which motor vehicles are being used;
  - (f) different numbers of occupants; and
  - (g) different classes of motor vehicles.
- (5) A charging scheme may specify that the charges specified in the scheme shall be increased, on such dates as may be so specified, by reference to such percentage increases in the retail prices index as may be so specified.
- (6) In setting the charges imposed by a charging scheme, the charging authority or authorities (acting jointly) shall have regard to the purposes for which the authority or authorities are, in accordance with schedule 1 to this Act, to apply the net proceeds of the charging scheme.
- (7) A charging scheme may contain provision requiring—
  - (a) such documents as may be specified in the scheme to be displayed on a motor vehicle while it is on a road in respect of which charges are imposed; or
  - (b) such equipment as may be so specified to be carried in or fitted to a motor vehicle while it is on such a road.
- (8) In this section “the retail prices index” means—
  - (a) the general index of retail prices (for all items) published by the Office for National Statistics; or
  - (b) where that index is not published for a month, any substituted index or figures published by that Office.

#### 54 Charging schemes: exemptions etc.

- (1) The Scottish Ministers may make regulations requiring charging schemes to contain provision for or in connection with—
  - (a) exemptions from charges; or
  - (b) the application of reduced rates of charges.
- (2) <sup>F5</sup>No part of a road shall be subject to charges imposed by more than one charging scheme at the same time.

#### Textual Amendments

**F5** Words in s. 54(2) substituted (10.10.2005) by Transport (Scotland) Act 2005 (asp 12), ss. 51(3), 54(2); S.S.I. 2005/454, art. 2, Sch. 2

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## **55 Penalties and liability for charges**

- (1) The Scottish Ministers may by regulations make provision for or in connection with the imposition, notification, payment, adjudication and enforcement of charges (in this section such charges being referred to as “charging scheme penalty charges”) in respect of acts, omissions, events or circumstances relating to or connected with charging schemes.
- (2) Regulations under this section may include provision for or in connection with setting the rates of charging scheme penalty charges (which may include provision for surcharges or discounts).
- (3) Charging scheme penalty charges in respect of any motor vehicle shall be paid—
  - (a) by the registered keeper of the motor vehicle; or
  - (b) in such circumstances as may be specified in regulations under this section, by such other person as may be so specified.
- (4) A person commits an offence if with intent to avoid payment of, or with intent to avoid being identified as having failed to pay, a charge imposed by a charging scheme the person—
  - (a) interferes with any equipment used for or in connection with charging under the charging scheme; or
  - (b) causes or permits the registration plate of a motor vehicle to be obscured.
- (5) A person commits an offence if with intent to avoid payment of, or with intent to avoid being identified as having failed to pay, charges imposed by a charging scheme or charging scheme penalty charges the person makes or uses any false document.
- (6) A person commits an offence if the person removes a notice of a charging scheme penalty charge which has been fixed to a motor vehicle in accordance with regulations under this section unless—
  - (a) the person is the registered keeper of the vehicle or a person using the vehicle with the registered keeper’s authority; or
  - (b) the person does so under the authority of the registered keeper or such a person or of the charging authority or any of the charging authorities.
- (7) A person guilty of an offence under subsection (4) or (5) above shall be liable on summary conviction to—
  - (a) a fine not exceeding level 5 on the standard scale; or
  - (b) imprisonment for a term not exceeding 6 months,or to both.
- (8) A person guilty of an offence under subsection (6) above shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

## **56 Examination, immobilisation and removal of vehicles etc.**

- (1) The Scottish Ministers may by regulations make provision enabling or requiring charging schemes to confer powers on persons specified in, or determined in accordance with, the regulations for or in connection with examining a motor vehicle for the purpose of ascertaining—
  - (a) whether any document required by a charging scheme to be displayed on a motor vehicle while it is on a road in respect of which charges are imposed is so displayed;

*Status: Point in time view as at 10/10/2005.*

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- (b) whether any equipment required by a charging scheme to be carried in or fitted to the motor vehicle while it is on such a road is carried or fitted, is in proper working order or has been interfered with with intent to avoid payment of, or being identified as having failed to pay, a charge; or
  - (c) whether any conditions relating to the use of any such equipment are satisfied.
- (2) Regulations under subsection (1) above may include provision for or in connection with—
- (a) conferring on a person duly authorised in writing by the charging authority, or any of the charging authorities, power to enter a motor vehicle for the purpose of exercising any of the powers conferred on that person by virtue of that subsection;
  - (b) conferring on a person on whom power to enter a motor vehicle has been conferred by virtue of paragraph (a) above power to seize anything (if necessary by detaching it from a motor vehicle) and detain it as evidence of the commission of an offence under section 55(4) or (5) of this Act.
- (3) Any person who intentionally obstructs a person acting in the exercise of any power conferred by virtue of subsection (2) above shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, to a fine.
- (4) The Scottish Ministers may by regulations make provision enabling or requiring charging schemes to make provision for or in connection with—
- (a) the fitting of immobilisation devices to motor vehicles;
  - (b) the fixing of notices to motor vehicles to which an immobilisation device has been fitted;
  - (c) the removal and storage of motor vehicles;
  - (d) the release of motor vehicles from immobilisation devices or from storage;
  - (e) the satisfaction of conditions before the release of a motor vehicle; and
  - (f) the sale or destruction of motor vehicles not released.
- (5) Any person who removes or interferes with a notice fixed to a motor vehicle in accordance with provision included in a charging scheme by virtue of subsection (4) above in contravention of such provision shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (6) Any person who removes or attempts to remove an immobilisation device fitted to a motor vehicle in accordance with provision included in a charging scheme by virtue of subsection (4) above in contravention of such provision shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) Any person who intentionally obstructs a person exercising any power conferred by provision included in a charging scheme by virtue of subsection (4) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) A charging scheme may authorise or require—
- (a) the examination of a motor vehicle;
  - (b) the fitting of an immobilisation device to a motor vehicle; or
  - (c) the removal of a motor vehicle,
- only if the vehicle is on a road.

*Status: Point in time view as at 10/10/2005.*

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- (9) In this section “immobilisation device” has the same meaning as in section 104 of the Road Traffic Regulation Act 1984 (c.27).

## **57 Equipment etc.**

- (1) The charging authority, or any of the charging authorities, may—
- (a) install and maintain, or authorise the installation and maintenance of, any equipment; or
  - (b) construct and maintain, or authorise the construction and maintenance of, any buildings or other structures,
- used or to be used for or in connection with the operation of a charging scheme.
- (2) The Scottish Ministers may by regulations approve standards for equipment installed, or authorised to be installed, by charging authorities for or in connection with the operation of charging schemes.
- (3) No equipment may be installed for or in connection with the operation of a charging scheme if it is incompatible with a standard approved under subsection (2) above.

## **58 Traffic signs**

- (1) The Scottish Ministers may direct the charging authority, or any of the charging authorities, in relation to a charging scheme to place and maintain traffic signs, or cause traffic signs to be placed and maintained, in connection with the scheme.
- (2) A charging authority which is or could be given a direction under this section may enter any land, and exercise any other powers which may be necessary, for placing and maintaining traffic signs, or causing traffic signs to be placed and maintained, in connection with any charging scheme in respect of which a direction is or could be given.
- (3) A direction under this section shall be given in writing and may be varied or revoked by the Scottish Ministers.
- (4) In this section “traffic signs” has the same meaning as in section 64 of the Road Traffic Regulation Act 1984 (c.27).

## **59 Non-domestic rating exemption**

After section 8AA of the Valuation and Rating (Scotland) Act 1956 (c.60) there shall be inserted—

### **“8B Property used for road user charging scheme to be excluded from valuation roll**

- (1) There shall not be entered in the valuation roll any lands and heritages—
- (a) that consist of a road in respect of which charges are imposed by a charging scheme made under Part 3 of the Transport (Scotland) Act 2001 (asp 2); or
  - (b) subject to subsection (2) below, that are used solely for or in connection with the operation of such a scheme.

*Status: Point in time view as at 10/10/2005.*

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- (2) Lands and heritages such as are mentioned in subsection (1)(b) above do not include office buildings.”.

### Supplementary

#### 60 Financial provisions about charging schemes

Schedule 1 to this Act (which contains financial provisions about charging schemes) shall have effect.

#### 61 Powers of charging authorities

The charging authority, or any of the charging authorities, in relation to a charging scheme (or any proposal for a charging scheme) may—

- (a) incur expenditure in or in connection with the making, establishment or operation of the charging scheme; or
- (b) enter into arrangements (including arrangements for forming or participating in companies) with any person in respect of the making, establishment or operation of the charging scheme or relating to the installation or operation of any equipment used for or in connection with the operation of the charging scheme.

#### 62 Grants to charging authorities

- (1) The Scottish Ministers may make grants to charging authorities who are proposing to make charging schemes towards their costs in determining whether to make such proposed schemes.
- (2) Grants under this section shall be of such amount and subject to such conditions (including conditions requiring their repayment in specified circumstances) as the Scottish Ministers may determine.
- (3) A determination under subsection (2) above may be made either generally or in relation to particular cases or classes of case.

#### 63 Information

- (1) Information obtained by—
  - (a) any Minister of the Crown or government department;
  - (b) the Scottish Administration; or
  - (c) any local authority or other statutory body,
 may be disclosed to the charging authority, or any of the charging authorities, in relation to a charging scheme for or in connection with the exercise of any of their functions with respect to the charging scheme.
- (2) Information obtained by the charging authority, or any of the charging authorities, in relation to a charging scheme for or in connection with any of their functions other than their functions with respect to the charging scheme may be used by them for or in connection with the exercise of any of their functions with respect to the charging scheme.

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- (3) Any information which has been or could be—
- (a) disclosed to an authority under subsection (1) above for or in connection with the exercise of any of their functions with respect to the charging scheme; or
  - (b) used by an authority by virtue of subsection (2) above for or in connection with the exercise of any of those functions,
- may be disclosed to any person with whom the authority has entered into arrangements under section 61(b) of this Act.
- (4) Information disclosed to a person under subsection (3) above—
- (a) may be disclosed to any other person for or in connection with the charging scheme; but
  - (b) may not be used (by the person or any other person to whom it is disclosed under paragraph (a) above) otherwise than for or in connection with the charging scheme.

## **64 Determination of disputes, appeals and evidence**

- (1) The Scottish Ministers may by regulations make provision for or in connection with—
- (a) the determination of disputes [<sup>F6</sup>arising under this Part of this Act]; and
  - (b) appeals against such determinations or any failure to make any such determination.

[<sup>F7</sup>(1A) Provision may be made under subsection (1) above for the appointment of—

- (a) persons to determine the disputes; and
- (b) persons to hear and determine the appeals,

referred to in that subsection.

(1B) Provision made by virtue of subsection (1A) above may include provision for the payment by charging authorities of expenditure incurred in and in consequence of the making of appointments by virtue of that subsection.

(1C) Provision made by virtue of subsection (1A) above may—

- (a) include provision conferring the functions referred to in paragraphs (a) and (b) of that subsection on persons appointed to carry out functions similar to those functions; and
- (b) where it does so, may, so as to give the provision full effect, apply and modify any enactment.]

(2) The Scottish Ministers may by regulations make provision for or in connection with permitting evidence of a fact relevant to proceedings for an offence under this Part of this Act, or proceedings in respect of a failure to comply with the provisions of a charging scheme, to be given by the production of—

- (a) a record produced by a device specified in, or determined in accordance with, the regulations; and
- (b) a certificate (whether in the same or another document) as to the circumstances in which the record was produced signed by a person so specified or determined.

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### Textual Amendments

- F6** Words in s. 64(1)(a) substituted (10.10.2005) by Transport (Scotland) Act 2005 (asp 12), ss. 51(4)(a), 54(2); S.S.I. 2005/454, art. 2, Sch. 2
- F7** S. 64(1A)-(1C) inserted (10.10.2005) by Transport (Scotland) Act 2005 (asp 12), ss. 51(4)(b), 54(2); S.S.I. 2005/454, art. 2, Sch. 2

## 65 Offences by bodies corporate and partnerships

- (1) Where an offence under this Part of this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a relevant person, the relevant person as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above applies in relation to the acts and defaults of a member in connection with his functions of management as if the member were a relevant person.
- (3) Where an offence under this Part of this Act committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.
- (4) In subsection (1) above “relevant person”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

## 66 Crown application

- (1) Sections 49 to 59 of this Act shall apply in relation to Crown roads (as defined in section 131(7)(b) of the Road Traffic Regulation Act 1984 (c.27)) as those sections apply in relation to other roads.
- (2) The provisions of this Part of this Act and of regulations and orders made under it shall bind the Crown.
- (3) No contravention by the Crown of any provision of this Act or of any regulations or orders made under it shall make the Crown criminally liable; but the Court of Session may, on the application of a charging authority, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (4) Notwithstanding anything in [F8 subsection (3)] above, the provisions of this Act and of regulations and orders made under it shall, subject to subsection (5) below, apply to motor vehicles, or persons, in the public service of the Crown as they apply to other motor vehicles or persons.
- (5) No power of entry or seizure conferred by regulations made under section 56(2) of this Act shall be exercisable in relation to any motor vehicle in the public service of the Crown.
- (6) Nothing in this section affects Her Majesty in Her private capacity.



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### Textual Amendments

- F8** Words in s. 66(4) substituted (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), ss. 51(5), 54(2); S.S.I. 2005/454, art. 2, Sch. 2

## *Interpretation of Part*

### **67 Interpretation of Part 3**

- (1) In this Part of this Act—  
“charging authority” and “charging authorities” have the meanings given by section 49(5) of this Act; and  
“operation” includes enforcement (related expressions being construed accordingly).
- (2) Any reference in this Part of this Act to a class of motor vehicles is a reference to a class defined or described, by reference to any characteristics of the motor vehicles or to any other circumstances whatsoever, in regulations made by the Scottish Ministers.

## **PART 4**

### MISCELLANEOUS

#### *Travel concession schemes*

### **68 Travel concession schemes**

- (1) The Scottish Ministers may by order require such local transport authority as may be specified in the order, or two or more such authorities acting jointly, to make a scheme covering such area as may be specified in the order for the provision of travel concessions to eligible persons travelling on eligible services on eligible journeys (any such scheme being referred to in this section as a “travelconcession scheme”).
- (2) Any area specified in an order under subsection (1) above shall be the whole or any part of the area, or combined area, of the authority, or authorities, so specified.
- (3) An order imposing a requirement on an authority, or two or more authorities, under subsection (1) above may include such provision as respects any scheme established by that authority, or those authorities, under section 93 of the 1985 Act, which covers the whole or part of the area specified in such order as the Scottish Ministers consider necessary or expedient in consequence of such order.
- (4) A travel concession scheme made by virtue of subsection (1) above shall include such provision—
- as respects the rate of travel concession;
  - as respects the days and times during which travel concessions shall be provided;
  - requiring the authority, or authorities, to reimburse operators of eligible services for providing travel concessions under the scheme;
  - as respects the enforcement of the scheme; and

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- (e) as respects such other matters relating to the content and operation of the scheme,  
as may be specified in the order under that subsection.
- (5) A requirement such as is mentioned in paragraph (c) of subsection (4) above may, in particular, make provision—
- (a) with respect to the determination by the authority, or authorities, of the amounts to be paid by them to individual operators, or to any class of operators, by way of reimbursement;
  - (b) as to the manner of making any payments due to operators by way of reimbursement;
  - (c) about the terms on which, and the extent to which, the authority, or authorities, may employ any person as their agent for the purpose of making payments due to operators by way of reimbursement and the descriptions of persons who may be so employed; and
  - (d) as to the publication and notification by authorities of proposed arrangements, or proposed variations of arrangements, in respect of reimbursement.
- (6) An operator of eligible services who systematically fails to comply with an obligation imposed by a travel concession scheme on the operator for the provision of travel concessions under the scheme shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) In this section—
- “eligible journey”, in relation to a travel concession scheme, means a journey—
- (a) between places in the area covered by the scheme;
  - (b) between such places and places outwith, but in the vicinity of, that area;
- or
- (c) between places outwith, but in the vicinity of, that area;
- “eligible person”, in relation to a travel concession scheme, means a person who resides in the area covered by the scheme and—
- (a) [<sup>F9</sup>has attained the age of 60 years;]
  - (b) suffers from a disability, or injury, of such description as the Scottish Ministers may by order specify; or
  - (c) is of such other description as the Scottish Ministers may by order specify;
- “eligible service” means—
- (a) a service, of a class specified in an order made by the Scottish Ministers, using a public service vehicle (within the meaning of the Public Passenger Vehicles Act 1981 (c.14));
  - (b) a transport service by water which carries passengers and operates regularly between two or more points both or all of which are in Scotland; and
  - (c) a service of such other description as the Scottish Ministers may by order specify; and
- “travel concession”, in relation to a journey, means—
- (a) reduction of the fare (within the meaning of that Act of 1981) for the journey below the amount applicable to an adult who is not entitled to any reduction; or
  - (b) waiver of such fare.

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### Textual Amendments

- F9** Words in s. 68(7) substituted (1.4.2003) by [Local Government in Scotland Act 2003 \(asp 1\), ss. 44\(2\), 62\(2\); S.S.I. 2003/134, art. 2\(1\), Sch.](#)

## Bridges

### 69 Joint boards for management, maintenance etc. of certain bridges

- (1) Where—
- (a) a body other than a roads authority is under any enactment responsible for the management and maintenance of a bridge constructed in pursuance of powers conferred by, or by an order made under or confirmed by, any enactment (any such body being referred to in this section as a “relevant body”); and
  - (b) the functions of the relevant body relate solely to such a bridge,
- the Scottish Ministers may by order dissolve the relevant body.
- (2) An order under this section may—
- (a) transfer to a joint board comprised of such local authorities as may be specified in the order (such authorities being referred to in this section as the “constituent authorities”) such property, rights and liabilities of the relevant body to which the order relates as may be so specified;
  - (b) confer on such a joint board such functions in connection with the bridge as may be specified in the order;
  - (c) delegate to such a joint board such functions, relating to transport across the river spanned by the bridge, of the constituent authorities as may be specified in the order;
  - (d) make provision in connection with the transfer of staff employed by or for the purposes of such body;
  - (e) without prejudice to the generality of paragraph (d) above, make provision regarding liability for the payment of any pensions, allowances or gratuities which would otherwise have been the responsibility of such body; and
  - (f) make such provision amending, repealing or revoking enactments as appears to the Scottish Ministers to be necessary or expedient.
- (3) A joint board constituted by order under this section—
- (a) shall be deemed for all purposes to be a joint board within the meaning of the Local Government (Scotland) Act 1973 (c.65) constituted under that Act; and
  - (b) shall be deemed for the purposes of Part 3 of this Act to be a local traffic authority in relation to any road carried by the bridge.
- (4) For the purposes of this section—
- “enactment” includes a local and personal or private Act;
  - “river” includes estuary; and
  - “roads authority” has the meaning given by section 151(1) of the Roads (Scotland) Act 1984 (c.54).

*Status: Point in time view as at 10/10/2005.*

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### *Grants for transport-related purposes*

#### **70 Grants for transport-related purposes**

- (1) The Scottish Ministers may make grants [<sup>F10</sup>or loans] to any persons for any purposes relating to transport.
- (2) Grants [<sup>F11</sup>and loans] under this section shall be of such [<sup>F12</sup>amounts] and subject to such conditions (including [<sup>F13</sup>, in the case of grants,] conditions requiring their repayment in specified circumstances) as the Scottish Ministers may determine.
- (3) A determination under subsection (2) above may be made either generally or in relation to particular cases or classes of case.
- (4) If in any financial year the power conferred by subsection (1) above is exercised, the Scottish Ministers shall, not later than three months after the end of the financial year, lay before the Scottish Parliament a report on grants [<sup>F14</sup>and loans] made under that subsection during that financial year; and any such report shall, in relation to each grant [<sup>F15</sup>or loan], include details of—
  - (a) the amount of the grant [<sup>F15</sup>or loan];
  - (b) the person to whom it has been paid; and
  - (c) the purpose for which it has been paid.

#### **Textual Amendments**

- F10** Words in s. 70(1) inserted (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\), ss. 45\(4\), 54\(2\); S.S.I. 2005/454, art. 2, Sch. 2](#)
- F11** Words in s. 70(2) inserted (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\), ss. 45\(5\)\(a\), 54\(2\); S.S.I. 2005/454, art. 2, Sch. 2](#)
- F12** Word in s. 70(2) substituted (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\), ss. 45\(5\)\(b\), 54\(2\); S.S.I. 2005/454, art. 2, Sch. 2](#)
- F13** Words in s. 70(2) inserted (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\), ss. 45\(5\)\(c\), 54\(2\); S.S.I. 2005/454, art. 2, Sch. 2](#)
- F14** Words in s. 70(4) inserted (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\), ss. 45\(6\)\(a\), 54\(2\); S.S.I. 2005/454, art. 2, Sch. 2](#)
- F15** Words in s. 70(4) inserted (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\), ss. 45\(6\)\(b\), 54\(2\); S.S.I. 2005/454, art. 2, Sch. 2](#)

### *Financial assistance: inland waterway and sea freight*

#### **71 Financial assistance for inland waterway and sea freight**

- (1) The Scottish Ministers may, if they are satisfied that it is in the public interest to do so, make grants or other payments for the purpose of securing or encouraging the carriage of goods by inland waterway or by sea rather than by road.
- (2) Grants or payments under this section may in particular be made in respect of facilities for or in connection with the carriage of goods by inland waterway or by sea (including facilities for loading or unloading goods).

*Status: Point in time view as at 10/10/2005.*

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- (3) Grants or payments under this section shall be of such amount and subject to such conditions (including conditions requiring their repayment in specified circumstances) as the Scottish Ministers may determine.
- (4) A determination under subsection (3) above may be made either generally or in relation to particular cases or classes of case.
- (5) In this section “inland waterway” includes both a natural and an artificial inland waterway.
- (6) Section 140 of the Railways Act 1993 (c.43) (grants to assist the provision of facilities for freight haulage by inland waterway) is repealed.

*Disabled persons’ transport needs: power to establish committee*

## **72 Disabled persons’ transport needs: power to establish committee**

- (1) The Scottish Ministers may by regulations establish a committee for the purposes of—
  - (a) considering such matters relating to the needs of disabled persons in connection with transport as the committee think appropriate; and
  - (b) giving such advice to the Scottish Ministers in relation to such matters as the committee think appropriate.
- (2) Regulations under subsection (1) above may in particular make provision for or in connection with—
  - (a) the membership of the committee;
  - (b) the appointment and tenure of office of members of the committee;
  - (c) the payment of remuneration and allowances to members of the committee; and
  - (d) such other matters as the Scottish Ministers consider necessary or expedient for the purpose of enabling the committee to perform their functions.

*Motor vehicles used by disabled persons*

## **73 Badges for display on motor vehicles used by disabled persons: enforcement**

In section 21 of the Chronically Sick and Disabled Persons Act 1970 (c.44) (badges for display on motor vehicles used by disabled persons)—

- (a) after subsection (4B) there shall be inserted—

“(4BA) Where there is displayed on any motor vehicle a badge which appears to a constable to be, or to purport to be, of a form prescribed under subsection (1) above, he may require—

- (a) any person who appears to the constable to be, or to have been, using the vehicle; or
- (b) any person in the vehicle (other than a person such as is mentioned in paragraph (a) above),  
to produce the badge for examination

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- (4BB) A person who without reasonable excuse fails to produce a badge when required to do so under subsection (4BA) above shall be guilty of an offence.”;
- (b) in subsection (4C), after “(4B)” there shall be inserted “ or (4BB) ”;
- (c) after subsection (7C) there shall be inserted—
- “(7CA) The Scottish Ministers may by regulations make provision for or in connection with appeals from decisions of the Scottish Ministers under subsection (7C) above.”;
- (d) after subsection (7E) there shall be inserted—
- “(7F) The Scottish Ministers may by regulations make such provision for or in connection with enabling badges—
- (a) issued under such provision of the law of Northern Ireland as corresponds to this section; or
- (b) issued by any member State other than the United Kingdom for purposes corresponding to the purposes for which badges under this section are issued,
- to be treated for such purposes as may be specified in the regulations as if they were badges issued under this section.
- (7G) Any regulations under subsections (7CA) and (7F) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.”;
- and
- (e) after subsection (8) there shall be inserted—
- “(8A) In subsection (4BA) above, “constable” has the same meaning as in the Police (Scotland) Act 1967 (c.77); but includes a traffic warden and a parking attendant.”.

#### Commencement Information

**I3** S. 73(a)(b)(e) in force at 1.1.2004 by S.S.I. 2003/588, [art. 2](#)

**I4** S. 73 partly in force; s. 73 not in force at Royal Assent see s. 84(2); s. 73(c)(d) in force at 1.4.2001 by S.S.I. 2001/132, [art. 2 Sch.](#)

### Home zones

#### 74 Home zones

- (1) A local traffic authority may, with a view to implementing measures for securing any of the purposes mentioned in subsection (2) below, designate as a home zone any road for which they are the traffic authority.
- (2) The purposes mentioned in subsection (1) above are—
- (a) to improve the safety of persons using the road or any area in the vicinity of the road;
- (b) to improve or preserve the environment through which the road runs;

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- (c) to improve the facilities provided on, or in the vicinity of, the road in such a way as to bring benefits to any persons using the road (not being persons using motor vehicles); and
  - (d) to any extent to implement their transport policies.
- (3) Where a local traffic authority have, by virtue of subsection (1) above, designated a road they shall prepare and publish a report on the measures (if any) they have implemented for securing the purpose or purposes for which the designation was made.
- (4) The Scottish Ministers may by regulations make provision for or in connection with—
- (a) specifying the roads, or classes of road, that may be designated;
  - (b) the procedure to be followed when making, varying or revoking designations (including provision as to consultation);
  - (c) the confirmation of designations by them;
  - (d) the preparation of reports under subsection (3) above; and
  - (e) the times at which and manner in which such reports are to be published.
- (5) In this section “transport policies”, in relation to a local traffic authority, means the policies formulated from time to time under section 63(2)(b) of the 1985 Act by the local authority who are the local traffic authority.

#### Commencement Information

**I5** S. 74 wholly in force 1.4.2002; s. 74 not in force at Royal Assent see s. 84(2); s. 74(4) in force at 1.4.2001 and s. 74(1)(2)(3)(5) in force at 1.4.2002 by S.S.I. 2001/132, art. 2 Sch.

#### *Public rights of passage: redetermination orders*

### 75 Amendment of Roads (Scotland) Act 1984

In section 152 of the Roads (Scotland) Act 1984 (c.54) (further provision as to interpretation and certain ancillary powers)—

(a) after subsection (3) there shall be inserted—

“(3A) Where an order under subsection (2) above states that it has effect only for such period not exceeding 18 months as is specified in the order, the order shall have effect during that period notwithstanding any failure to comply with—

- (a) any regulations made under subsection (1) of section 71 of this Act; or
- (b) subsection (2) of that section.

(3B) Subject to subsection (3C) below, an order which—

- (a) has effect by virtue of subsection (3A) above; and
- (b) makes the same provision in relation to the same right of public passage as was made in an order which has ceased to have effect,

may not have effect for a period which, when taken together with the period for which any order such as is mentioned in paragraph (b) above had effect, amounts to more than 18 months.

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(3C) An order may have effect for a period which, when taken together with the period for which any order such as is mentioned in subsection (3B) (b) above had effect, amounts to more than 18 months only for the purpose of enabling the authority who made the order to take any steps necessary to seek to comply with—

- (a) any regulations made under subsection (1) of section 71 of this Act; or
- (b) subsection (2) of that section.”;

and

(b) after subsection (4) there shall be added—

“(5) Where—

- (a) during the period when an order under subsection (2) above has effect by virtue of subsection (3A) above, the authority carry out any works necessary for giving effect to the order (including any works carried out by virtue of subsection (4) above); and
- (b) on the order ceasing to have effect, no further order under subsection (2) above making the same provision in relation to the same right of public passage has effect,

the authority who made the order shall carry out any works necessary to reinstate the conditions pertaining before such works were carried out.”.

*Road safety information and training: subsidies*

**76 Amendment of Road Traffic Act 1988**

In section 40 of the Road Traffic Act 1988 (c.52) (power to subsidise certain authorities and bodies for giving road safety information and training)—

- (a) the words “authorities or bodies other than” are repealed; and
- (b) at the end there shall be inserted “ or by other authorities or bodies ”.

*School crossing patrols*

**77 Patrolling school crossings**

(1) The Road Traffic Regulation Act 1984 (c.27) shall be amended as follows.

(2) In section 26(1) (arrangements for patrolling places where children cross roads during certain periods) the words “during periods between the hours of eight in the morning and half-past five in the afternoon when children are so on their way,” are repealed.

(3) After section 26(1) there shall be inserted—

“(1A) Arrangements under subsection (1) above may be made for patrolling places at such times as the appropriate authority think fit.”.

(4) In section 28(1) (power to stop vehicles at school crossings)—



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- (a) the words “between the hours of eight in the morning and half-past five in the afternoon” are repealed; and
  - (b) for the words “children on their way to or from school, or from one part of a school to another, are” there shall be substituted “ a person is ”.
- (5) In section 28(2)(a) (duty to stop vehicle before reaching place where children are crossing) for the words—
- (a) “children are” there shall be substituted “ person is ”; and
  - (b) “their” there shall be substituted “ his ”.
- (6) In section 28(5)—
- (a) paragraph (c) (presumption that children were on their way to school etc.); and
  - (b) the word “and” immediately preceding it,
- are repealed.

### *Bicycle and motor cycle stands*

## **78 Stands etc. for bicycles and motor cycles**

- (1) The Road Traffic Regulation Act 1984 (c.27) shall be amended as follows.
- (2) In section 63 (power of authorities to provide stands for racks for bicycles) for “and racks for bicycles” there shall be substituted “ or racks for, or devices for securing, bicycles or motor cycles ”.
- (3) In section 136(4) (meaning of “motor cycle”) for the words “section 57” there shall be substituted “ sections 57 and 63 ”.

## **PART 5**

### **GENERAL**

## **79 Guidance**

- (1) The Scottish Ministers may issue guidance to—
  - (a) local traffic authorities in relation to charging schemes;
  - (b) local traffic authorities in relation to the designation of roads as home zones by virtue of section 74(1) of this Act;
  - (c) local transport authorities in relation to quality partnership schemes, quality contract schemes, ticketing schemes and the provision of information under section 34 of this Act; and
  - (d) local transport authorities [<sup>F16</sup>and local traffic authorities (or any one or more local traffic authorities)] in relation to the preparation of local transport strategies;and such authorities shall have regard to any such guidance.
- (2) Guidance issued under this section shall be published in such manner as the Scottish Ministers consider appropriate; and the Scottish Ministers may at any time vary or revoke guidance issued by them under this section.

*Status: Point in time view as at 10/10/2005.*

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### Textual Amendments

**F16** Words in s. 79(1)(d) inserted (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 51(6), 54(2)**; [S.S.I. 2005/454, art. 2, Sch. 2](#)

## 80 Civil penalties: bodies corporate and partnerships

(1) Where—

- (a) apart from this subsection, a penalty under, or by virtue of, any provision of this Act is recoverable from a body corporate or Scottish partnership by reason of any act or omission of the body or partnership; and
- (b) the act or omission was done with the consent or connivance of, or is attributable to any neglect on the part of, any of the persons mentioned in subsection (2) below,

those provisions shall apply to each of those persons who consented to or connived in the act or omission or to whose neglect the act or omission was attributable.

(2) The persons referred to in subsection (1)(b) above—

- (a) in relation to a body corporate, are—
  - (i) any director, manager, secretary, or other similar officer of the body, or a person purporting to act in any such capacity; and
  - (ii) where the affairs of a body corporate are managed by its members, any member in connection with that member’s functions of management; and
- (b) in relation to a Scottish partnership, are the partners.

(3) Where any person pays a penalty by virtue of subsection (1) above, the body corporate, or Scottish partnership, in question shall not also be required to pay a penalty in respect of the same act or omission.

## 81 Regulations and orders

(1) Any power of the Scottish Ministers under this Act to make regulations or orders shall be exercisable by statutory instrument.

(2) Any power under this Act to make regulations or orders shall include power to make—

- (a) different provision for different cases and for different classes of case; and
- (b) such incidental, supplementary, consequential, saving or transitional provision as the Scottish Ministers consider necessary or expedient.

(3) Subject to subsection (4) below, a statutory instrument containing regulations or an order made under this Act (other than an order made under section 84(2) of this Act) shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.

(4) A statutory instrument containing—

- (a) an order under section 14(6), 18(2)(b), 68(1) or 69(1) of this Act; or
- (b) regulations under section 41(1) of this Act [<sup>F17</sup>or which consist of or include provision made by virtue of section 64(1C) of this Act],

shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Scottish Parliament.

*Status: Point in time view as at 10/10/2005.*

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### Subordinate Legislation Made

**P1** S. 81(2); power fully exercised; 1.7.2002 appointed for specified provisions by [S.S.I. 2002/291](#), [art. 2](#) (with [art. 3](#))

### Textual Amendments

**F17** Words in s. 81(4)(b) inserted (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), [ss. 51\(7\)](#), [54\(2\)](#); [S.S.I. 2005/454](#), [art. 2](#), [Sch. 2](#)

## 82 Interpretation

(1) In this Act—

- “charging scheme” has the meaning given by section 49(5) of this Act;
- “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39);
- “local transport authority” means—
- (a) a local authority; or
  - (b) the Strathclyde Passenger Transport Authority;
- “local traffic authority” has the same meaning as in section 121A of the Road Traffic Regulation Act 1984 (c.27);
- “local transport strategy” means any strategy prepared, <sup>F18</sup>... by
- [<sup>F19</sup>(a)] a local transport authority ; relating to transport in their area; [<sup>F20</sup>or
  - (b) a local traffic authority,]
- “motor vehicle” has the meaning given by section 185(1) of the Road Traffic Act 1988 (c.52), except that section 189 of that Act (exception for certain pedestrian controlled vehicles and electrically assisted pedal cycles) shall apply as it applies for the purposes of the Road Traffic Acts;
- “quality contract scheme” shall be construed in accordance with section 13(5) of this Act;
- “quality partnership scheme” shall be construed in accordance with section 3(3) of this Act;
- “registered keeper”, in relation to a charge imposed in respect of a motor vehicle, means the person in whose name the vehicle was registered under the Vehicle Excise and Registration Act 1994 (c.22) at the time of the contravention, act, omission, event or circumstances in respect of which the charge is imposed;
- “road” has the same meaning as in section 151 of the Roads (Scotland) Act 1984 (c.54);
- “the 1985 Act” means the Transport Act 1985 (c.67); and
- “ticketing scheme” shall be construed in accordance with section 29(3) of this Act.

(2) Where a reference to a local transport authority in any of the following provisions is to the Strathclyde Passenger Transport Authority, that reference shall be construed as a reference to the Strathclyde Passenger Transport Executive—

- section 3(3)(a);
- section 6(2)(a) and (4)(a);
- section 8(1) and (2);
- section 10;

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section 13(6) and (7);  
 section 18;  
 section 19;  
 section 24;  
 section 33(4);  
 section 34;  
 section 43; and  
 section 68.

#### Textual Amendments

- F18** Words in s. 82(1) repealed (10.10.2005) by Transport (Scotland) Act 2005 (asp 12), **ss. 51(8)(a)**, 54(2); S.S.I. 2005/454, art. 2, Sch. 2
- F19** Word in s. 82(1) inserted (10.10.2005) by Transport (Scotland) Act 2005 (asp 12), **ss. 51(8)(b)**, 54(2); S.S.I. 2005/454, art. 2, Sch. 2
- F20** Words in s. 82(1) inserted (10.10.2005) by Transport (Scotland) Act 2005 (asp 12), **ss. 51(8)(c)**, 54(2); S.S.I. 2005/454, art. 2, Sch. 2

### 83 Minor and consequential amendments and repeals

Schedule 2 to this Act (which contains minor amendments, amendments consequential upon the provisions of this Act and repeals) shall have effect.

#### Commencement Information

- I6** S. 83 partly in force; s. 83 not in force at Royal Assent see s. 84(2); s. 83 in force for specified purposes at 1.4.2001 and for further specified purposes at 1.7.2001 by S.S.I. 2001/132, **art. 2 Sch.**

### 84 Short title and commencement

- (1) This Act may be cited as the Transport (Scotland) Act 2001.
- (2) The provisions of this Act, other than this section, shall come into force on such day as the Scottish Ministers may by order appoint.
- (3) Different days may be so appointed for different purposes.

#### Subordinate Legislation Made

- P2** S. 84(3): power partly exercised; different dates appointed for specified provisions by S.S.I. 2001/132, **art. 2, Sch.** (with **art. 3**) (as amended by S.S.I. 2001/167 art. 2)
- S. 84(2): power fully exercised; 1.7.2002 appointed for specified provisions by S.S.I. 2002/291, **art. 2** (with **art. 3**)

**Status:**

Point in time view as at 10/10/2005.

**Changes to legislation:**

Transport (Scotland) Act 2001 is up to date with all changes known to be in force on or before 02 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.