



# Transport (Scotland) Act 2005

## 2005 asp 12

### PART 3

#### MISCELLANEOUS

#### **40 National travel concession schemes**

- (1) The Scottish Ministers may, by order, make national travel concession schemes.
- (2) A national travel concession scheme is a scheme for the provision of travel concessions to eligible persons travelling on eligible services on eligible journeys.
- (3) A national travel concession scheme may operate throughout Scotland or only in a part or parts of Scotland; and, in any case, may provide differently for different areas.
- (4) A national travel concession scheme shall include provision—
  - (a) determining or for the determination of the rate or rates of travel concessions;
  - (b) specifying or for the specification of the days and times during which travel concessions are provided;
  - (c) requiring or enabling operators of eligible services to provide travel concessions;
  - (d) as to the reimbursement of those operators for providing travel concessions;
  - (e) for enforcement of and appeals against requirements under paragraph (c) above; and
  - (f) for such other matters connected with the scheme as the Scottish Ministers think fit.
- (5) A national travel concession scheme may provide for the modification or revocation of any travel concession scheme established under section 93 of the Transport Act 1985 (c. 67) (local authority travel concession schemes).
- (6) An operator of eligible services who fails to comply with an obligation imposed by or under a national travel concession scheme on the operator is 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 national travel concession scheme, means a journey beginning at or ending in a place in which the scheme operates;

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“eligible person” in relation to a national travel concession scheme, means a person who is of such description as the Scottish Ministers may by order specify; “eligible service” means a service of such 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 the Public Passenger Vehicles Act 1981 (c. 14)) for the journey below the amount applicable to an adult who is not entitled to any reduction; or
- (b) waiver of such fare.

#### **41 Public Transport Users' Committee for Scotland**

- (1) The Scottish Ministers shall, by order, establish a body corporate to be known as the Public Transport Users' Committee for Scotland (in this section, the “Committee”).
- (2) An order under this section may include provision—
  - (a) about the constitution and membership of the Committee (including how members and office-holders are to be appointed);
  - (b) about the proceedings of the Committee;
  - (c) about its staff;
  - (d) about the discharge of its functions (including provision for the discharge of functions by sub-committees with members who are not all members of the Committee);
  - (e) about the making of reports by the Committee to the Scottish Ministers;
  - (f) about the making of payments by way of—
    - (i) allowances to office-holders, other members of the Committee and members of sub-committees who are not members of the Committee;
    - (ii) remuneration to its staff;
    - (iii) the meeting of the expenses of the persons mentioned in subparagraphs (i) and (ii) above;
    - (iv) pensions and other payments to or in respect of former staff of the Committee;
  - (g) about the keeping of accounts by the Committee and their audit and submission to the Scottish Ministers.
- (3) The Scottish Ministers may—
  - (a) make payments to the Committee of such amounts, at such times and on such conditions (if any);
  - (b) make available to the Committee such staff, accommodation, furniture and equipment,
 as they consider appropriate.
- (4) In Schedule 1 to the Freedom of Information (Scotland) Act 2002 (asp 13) (public authorities subject to duty to disclose information), after the entry numbered 75 there is inserted the following entry—
  - “75A The Public Transport Users' Committee for Scotland.”.

## **42 Functions of the Committee**

- (1) The Committee may consider and make recommendations to the Scottish Ministers about any matter relating to public transport services in, from or to Scotland.
- (2) The Committee shall consider and make recommendations about any other matter if asked to do so by the Scottish Ministers.
- (3) The Scottish Ministers may, by order—
  - (a) confer further functions on the Committee;
  - (b) remove functions from the Committee;
  - (c) make changes to any function of the Committee;
  - (d) transfer any function of the Committee to another person (including the Scottish Ministers).
- (4) An order under subsection (3)(a) or (c) above may confer a function or change a function only if the new function or, as the case may be, the function as changed relates to public transport services in, from or to Scotland or facilities for those services.
- (5) The Committee may do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of its functions.
- (6) In this section, “public transport services” means all those services (including ferry services used also for carrying freight) on which members of the public rely for getting from place to place when not relying on facilities of their own but does not include—
  - (a) services provided under permits under section 19 of the Transport Act 1985 (c. 67) (permits in relation to use of buses by educational and other bodies) other than services provided wholly or mainly to meet the needs of members of the public who are elderly or disabled;
  - (b) excursions or tours.

## **43 Guidance and direction to the Committee**

The Committee shall—

- (a) have regard to any written guidance issued to it by the Scottish Ministers;
  - (b) comply with any written direction given to it by them,
- as to how it is to discharge its functions.

## **44 Abolition of requirement on local traffic authority to inform the Scottish Ministers about certain pedestrian crossings**

In section 23(2) of the Road Traffic Regulation Act 1984 (c. 27)—

- (a) after paragraph (a) there is inserted “and”; and
- (b) paragraph (c) (duty of local traffic authority to inform the Scottish Ministers in writing before establishing, altering or removing a pedestrian crossing on a road other than a trunk road) and the word “and” which immediately precedes it are repealed.

#### **45 Modification of Highlands and Islands Shipping Services Act 1960 and loans for transport-related purposes**

- (1) The Highlands and Islands Shipping Services Act 1960 (c. 31) (financial and other assistance to those concerned with providing sea transport services for the Highlands and Islands), so far as relating to the provision of that assistance by the Scottish Ministers, ceases to have effect.
- (2) Nothing in subsection (1) above affects any undertaking given, advance made, contract or other obligation or transaction entered into or action entered upon before that subsection comes into force.
- (3) Section 70 of the Transport (Scotland) Act 2001 (asp 2) (grants for transport-related purposes) is amended in accordance with subsections (4) to (6) below.
- (4) In subsection (1), after “grants” there is inserted “or loans”.
- (5) In subsection (2)—
  - (a) after “Grants” there is inserted “and loans”;
  - (b) for “amount” there is substituted “amounts”;
  - (c) after “including” there is inserted “, in the case of grants,”.
- (6) In subsection (4)—
  - (a) after “grants” insert “and loans”;
  - (b) after “grant”, in both places where it occurs, there is inserted “or loan”.

#### **46 Amendment of procedure for dealing with applications for harbour orders**

- (1) Paragraph 18 of Schedule 3 to the Harbours Act 1964 (c. 40) (“the 1964 Act”) (which provides for the holding of an inquiry or public hearing where an objection is made to an application for a harbour revision or empowerment order and is not withdrawn) shall be amended in accordance with subsections (2) to (4) below.
- (2) For sub-paragraph (1) there is substituted—
  - “(1) This paragraph applies if an objection to the application was made to the Scottish Ministers and has not been withdrawn.
  - (1A) It does not apply, however, if—
    - (a) the Scottish Ministers decide that the application is not to proceed further;
    - (b) they consider the objection is frivolous or trivial;
    - (c) the objection does not specify the grounds on which it is made; or
    - (d) the objection was not made within the period allowed for making it.
  - (1B) Before making their decision under paragraph 19, the Scottish Ministers may—
    - (a) cause an inquiry to be held; or
    - (b) give to the person who made the objection referred to in sub-paragraph (1) an opportunity of appearing before and being heard by a person appointed by them.
  - (1C) Where—

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- (a) the objection referred to in sub-paragraph (1) is made by a person within sub-paragraph (1D); and
- (b) the person informs the Scottish Ministers in writing that the person wishes the objection to be referred to an inquiry or dealt with in accordance with sub-paragraph (1B)(b),

the Scottish Ministers shall, before making their decision under paragraph 19, either cause an inquiry to be held or, if they so determine, cause the objection to be dealt with in accordance with sub-paragraph (1B)(b).

(1D) The persons within this sub-paragraph are—

- (a) any council constituted under the Local Government etc. (Scotland) Act 1994 (c. 39) for an area in which the harbour (or any part of it) is situated; and
- (b) if the order will authorise the compulsory acquisition of land, any person who is entitled to be served with notice under paragraph 11.”.

(3) In sub-paragraph (2), for “sub-paragraph (1)(a)” there is substituted “sub-paragraph (1B)(b)”.

(4) In sub-paragraph (3), paragraph (a) is repealed.

(5) In paragraph 19 of that Schedule (decisions on an application for a harbour revision or empowerment order), there is inserted at the end of sub-paragraph (1) “; and

- (f) any written representations submitted to the Scottish Ministers by the applicant or any objector in elaboration of the application or, as the case may be, objection.”,

and the word “and” occurring between sub-paragraphs (1)(d) and (e) is repealed.

#### **47 Amendment of procedure where harbour revision orders are made by the Scottish Ministers of their own motion**

(1) For paragraph 28 of Schedule 3 to the 1964 Act there is substituted—

“28 (1) This paragraph applies if an objection to the proposal was made to the Scottish Ministers and has not been withdrawn.

(2) It does not, however, apply if—

- (a) the Scottish Ministers decide that the proposal is not to proceed further;
- (b) they consider the objection is frivolous or trivial;
- (c) the objection does not specify the grounds on which it is made; or
- (d) the objection was not made within the period allowed for making it.

(3) Before making their decision under paragraph 29, the Scottish Ministers may—

- (a) cause an inquiry to be held; or
- (b) give to the person who made the objection referred to in sub-paragraph (1) an opportunity of appearing before and being heard by a person appointed by them.

(4) Where—

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- (a) the objection referred to in sub-paragraph (1) is made by a council constituted under the Local Government etc. (Scotland) Act 1994 (c. 39) for an area in which the harbour (or any part of it) is situated; and
  - (b) the council informs the Scottish Ministers in writing that it wishes the objection to be referred to an inquiry or dealt with in accordance with sub-paragraph (3)(b),  
the Scottish Ministers shall, before making their decision under paragraph 29, either cause an inquiry to be held or, if they so determine, cause the objection to be dealt with in accordance with sub-paragraph (3)(b).
- (5) Where an objector is heard in accordance with sub-paragraph (3)(b), the Scottish Ministers shall allow such other persons as they think appropriate to be heard on the same occasion.”.
- (2) In paragraph 29 of that Schedule (decision on harbour revision order proposed by the Scottish Ministers)—
- (a) in sub-paragraph (1)(b), after “inquiry” there is inserted “and of any person appointed for the purpose of hearing an objector”; and
  - (b) there is inserted at the end of sub-paragraph (1) “; and
  - (c) any written representations submitted to the Scottish Ministers by an objector in elaboration of the objection.”,
- and the word “and” between sub-paragraphs (1)(a) and (b) is repealed.

#### **48 Transitional provision for sections 46 and 47**

Nothing in section 46 or 47 of this Act applies—

- (a) in relation to an application for an order under section 14 or 16 of the 1964 Act if the application was made before those sections of this Act come into force; or
- (b) in relation to a proposal by the Scottish Ministers to make a harbour revision order of the Scottish Ministers' own motion in respect of which a notice was published in the Edinburgh Gazette under paragraph 26(1)(a) of Schedule 3 to the 1964 Act before those sections of this Act come into force.

#### **49 Badges for vehicles used for disabled people: change of terminology**

In section 21(4) of the Chronically Sick and Disabled Persons Act 1970 (c. 44) (badges for display on motor vehicles used by institutions concerned with the care of disabled people) for “institution”, in both places where it occurs, there is substituted “organisation”.

#### **50 Extension of remit of Bus User Complaints Tribunal**

In section 41 of the Transport (Scotland) Act 2001 (asp 2) (Bus User Complaints Tribunal)—

- (a) in subsection (7), for “local” in both places where it occurs, there is substituted “bus”;
- (b) after that subsection there is inserted—

“(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.”.

## **51 Minor amendments of Transport (Scotland) Act 2001**

- (1) The Transport (Scotland) Act 2001 (asp 2) is amended in accordance with subsections (2) to (9) below.
- (2) In section 48 (interpretation of Part 2 (bus services)), in the definition of “relevant general policies” in paragraph (a)—
  - (a) after second “authority” there is inserted “(i)”; and
  - (b) at the end there is inserted “; or
    - (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;”.
- (3) In section 54(2) (road not to be subject to charges under more than one charging scheme) for “A road shall not” there is substituted “No part of a road shall”.
- (4) In section 64 (which enables regulations for, among other things, the determination of disputes and appeals against those determinations)—
  - (a) in subsection (1), in paragraph (a), for “relating to charging schemes” there is substituted “arising under this Part of this Act”; and
  - (b) after that subsection there is inserted—
    - “(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.”.

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- (5) In section 66(4) (application of Act to motor vehicles and persons in public service of the Crown), for “subsection (2)” there is substituted “subsection (3)”.
- (6) In section 79(1) (issue of guidance to local traffic and transport authorities), in paragraph (d), after “authorities” there is inserted “and local traffic authorities (or any one or more local traffic authorities)”.
- (7) In section 81(4)(b) (which specifies the regulations that are to be made by way of affirmative resolution procedure), after “Act” there is inserted “or which consist of or include provision made by virtue of section 64(1C) of this Act”.
- (8) In section 82(1) (interpretation) in the definition of “local transport strategy”—
- (a) the words from “in” (where first occurring) to “Act” are repealed;
  - (b) after “by” there is inserted “(a)”; and
  - (c) after “authority” there is inserted “; or  
(b) a local traffic authority,”.
- (9) In schedule 1, in paragraph 5 (application by charging authorities of proceeds of road user charging)—
- (a) in sub-paragraph (1), sub-sub-paragraph (b) and the word “or” immediately preceding it are repealed; and
  - (b) after that sub-paragraph there is inserted—
    - “(1A) A charging authority may, for the purposes of sub-paragraph (1) above, pay money to any local traffic authority, local transport authority or other person.”.