



Transport Act 1968

1968 CHAPTER 73

PART II

PASSENGER TRANSPORT AREAS

Modifications etc. (not altering text)

- C1** Pt. 2 amended (S.) by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 150\(2\)](#); modified (E.W.) by [Local Government Act 1972 \(c. 70\), s. 202\(3\)](#), [Sch. 24 Pt. II](#) and [Transport Act 1983 \(c. 10, SIF 126\), s. 10\(1\)\(a\)\(c\)](#)
- C2** Power to modify Pt. 2 conferred (S.) by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 150\(3\)](#)
- C3** Pt.2 amended (S.) (4.1.1996) by [1994 c. 39, s. 40\(1\)](#) (with s. 7(2)); S.I. 1994/2850, art. 3(a), [Sch. 2](#)

Designation of Passenger Transport Areas and establishment and functions of Authorities and Executives

9 Passenger Transport Areas, Authorities and Executives.

[^{F1}(1) [^{F2}Subject to any order under section 42(1)(c) of the Local Government Act 1985 (alteration or abolition of passenger transport areas, etc.)] for the purposes of this Part of this Act—

- (a) each of the following areas, that is to say—
- (i) in England and Wales, the metropolitan counties; and
 - (ii) in Scotland, that part of the Strathclyde region which was a designated area for the purposes of this Part of this Act immediately before the date on which section 57 of the Transport Act 1985 came into operation;
- shall be a passenger transport area;
- (b) the Passenger Transport Authority for a passenger transport area (referred to below in this Part of this Act, in relation to that area, as “the Authority”) shall be—

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- (i) in relation to a passenger transport area in England and Wales, the metropolitan county [^{F3}passenger transport authority for the county which is coterminous with or includes that passenger transport area]; and
 - (ii) in relation to the Strathclyde passenger transport area, the Strathclyde regional council; and
 - (c) the Passenger Transport Executive for a passenger transport area (referred to below in this Part of this Act, in relation to that area, as “the Executive”) shall be the body which immediately before the date mentioned in paragraph (a) above was the Passenger Transport Executive for the designated area for the purposes of this Part of this Act corresponding to that passenger transport area.
- (2) The Executive for a passenger transport area consists of—
- (a) a Director General appointed in accordance with Part II of Schedule 5 to this Act by the Authority; and
 - (b) not less than two nor more than eight other members so appointed by the Authority after consultation with the Director General.
- (3) Subject to subsection (2) of this section and Part II of Schedule 5 to this Act, the Secretary of State may by order make with respect to the Executive for any passenger transport area—
- (a) such provision with respect to any of the matters referred to in Part III of that Schedule; and
 - (b) such supplementary, incidental and consequential provision; as appears to the Secretary of State to be necessary or expedient.
- (4) Before making any order under subsection (3) of this section, the Secretary of State shall consult with the Passenger Transport Authority for the area and, where the area is in England and Wales, with the councils of the districts comprised in the [^{F4}county which is coterminous with or includes that] area.]
- (5) Each of the councils of [^{F5}the districts comprised in [^{F6}a county which is coterminous with or includes] a passenger transport area][^{F7}each of the districts comprised in the region in which the [^{F8}passenger transport] area is situated] and each of the following bodies namely, the Authority, the Executive and any subsidiary of the Executive, shall have power to enter into and carry out agreements with one another for the giving of assistance by that council to that body or, as the case may be, by that body to that council by way of making available to the assisted party any services or facilities provided by, or any property of, the assisting party.
- (6) In relation to any area in Scotland or Wales, any reference to the Minister in any provision of this Part of this Act or Schedule 5 . . . ^{F9}thereto other than [^{F10}section 20(6) and (7)] shall be construed as a reference to the Secretary of State.
- (7) ^{F11}

| Textual Amendments | |
|--------------------|--|
| F1 | S. 9(1)–(4) substituted by Transport Act 1985 (c.67, SIF 126) s. 57(1)(a) |
| F2 | Words inserted by Transport Act 1985 (c. 67, SIF 126), s. 58(2)(a)(i) |
| F3 | Words substituted by Transport Act 1985 (c. 67, SIF 126), s. 58(2)(a)(ii) |
| F4 | Words inserted by Transport Act 1985 (c. 67, SIF 126), s. 58(2)(b) |
| F5 | Words substituted (E.W.) by virtue of Transport Act 1985 (c. 67, SIF 126), s. 57(1)(b) |

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- F6** Words inserted (E.W.) by Transport Act 1985 (c. 67, SIF 126), s. 58(2)(c)
- F7** Words substituted (S.) by Local Government (Scotland) Act 1973 (c. 6)
- F8** Words substituted (S.) by Transport Act 1985 (c. 67, SIF 126), s. 57(1)(c)
- F9** Words repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 3, Sch. 8
- F10** Words substituted by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 3, Sch. 8
- F11** S. 9(7), which was added (S.) by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), Sch. 18 para. 1(f), repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(1)(d), 139(3), Sch. 8

[^{F12}9A General functions of Passenger Transport Authorities and Executives.

- (1) It shall be the duty of the Authority for any passenger transport area to formulate from time to time general policies with respect to the descriptions of public passenger transport services they consider it appropriate for the Executive for their area to secure for the purpose of meeting any public transport requirements within their area which in the view of the Authority would not be met apart from any action taken by the Executive for that purpose.
- (2) The Authority shall seek and have regard to the advice of the Executive for their area in formulating their policies under subsection (1) of this section.
- (3) It shall be the duty of the Executive for any passenger transport area to secure the provision of such public passenger transport services as they consider it appropriate to secure for meeting any public transport requirements within their area in accordance with policies formulated by the Authority for their area under subsection (1) of this section.
- (4) The Executive shall have power to enter into an agreement providing for service subsidies for the purpose of securing the provision of any service under subsection (3) of this section; but their power to do so—
 - (a) shall be exercisable only where the service in question would not be provided without subsidy; and
 - (b) is subject to sections 89 to 92 of the Transport Act 1985 (tendering for local services, etc.).
- (5) Where it appears to the Authority for any passenger transport area that it would be appropriate for the Executive for that area to take any measures for the purpose of or in connection with promoting, so far as relates to that area—
 - (a) the availability of public passenger transport services other than subsidised services and the operation of such services, in conjunction with each other and with any available subsidised services, so as to meet any public transport requirements the Authority consider it appropriate to meet; or
 - (b) the convenience of the public (including persons who are elderly or disabled) in using all available public passenger transport services (whether subsidised or not);the Authority may from time to time formulate general policies with respect to the description of such measures to be taken by the Executive for that area, and the Executive shall take such measures for the purpose or in the connection mentioned above as appear to them to be appropriate for carrying out those policies.
- (6) It shall be the duty—
 - (a) of the Authority for any passenger transport area, in formulating any such policies; and

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- (b) of the Executive for any passenger transport area, in carrying out any such policies;
- so to conduct themselves as not to inhibit competition between persons providing or seeking to provide public passenger transport services in their area.
- (7) It shall be the duty both of the Authority and of the Executive for any passenger transport area, in exercising or performing any of their functions under the preceding provisions of this section, to have regard to the transport needs of members of the public who are elderly or disabled.
- (8) No person who is for the time being—
- (a) the operator of any public passenger transport services;
 - (b) a director of any company or (as the case may be) an employee of any company or other person who is such an operator;
 - (c) a director or employee of any company which is a member of a group of inter-connected bodies corporate any one or more of which is such an operator;
 - (d) in Scotland, a partner or (as the case may be) an employee of a partner of such an operator;
- shall be appointed as a member, officer or servant of the Executive for any passenger transport area; and any person so appointed who subsequently becomes such an operator, director, partner or employee shall immediately vacate his membership of the Executive, or (as the case may be) his office or employment with the Executive.
- (9) References in subsection (5) above to subsidised services are references to services provided under an agreement providing for service subsidies entered into—
- (a) by the Executive for the area in question or for any other area under subsection (4) of this section; or
 - (b) by any non-metropolitan county or district council in England and Wales or by any regional or islands council in Scotland under section 63 of the Transport Act 1985.
- (10) For the purposes of subsection (8) above, any two bodies corporate are to be treated as inter-connected if one of them is a body corporate of which the other is a subsidiary or if both of them are subsidiaries of the same body corporate; and in that subsection “group of inter-connected bodies corporate” means a group consisting of two or more bodies corporate all of which are interconnected with each other in the sense given above.
- (11) In this section and section 9B of this Act “public passenger transport services” has the same meaning as in the Transport Act 1985; and—
- (a) references in this section to agreements providing for service subsidies; and
 - (b) references in this section and that section to the operator of, or to persons operating, any public passenger transport services;
- shall be read as if contained in that Act.]

Textual Amendments

F12 Ss. 9A, 9B inserted (with savings for s. 9A(8)) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 57(2)(5)

Modifications etc. (not altering text)

C4 S. 9A excluded (24.12.1993) by [1993 c. 43, ss.144\(1\), 150\(1\)\(j\)](#); S.I. 1993/3237, art. 2(1)

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C5 S. 9A(8) excluded (18.2.1993) by 1989 c. xix, s. 28(7) (as inserted by 1993 c. ii, s.14)

[^{F13}9B Consultation and publicity with respect to policies as to services.

- (1) When considering from time to time the formulation of policies for the purposes of section 9A(1) of this Act, the Authority for a passenger transport area shall consult—
 - (a) with every Passenger Transport Authority, county council or regional council whose area may be affected by those policies; and
 - (b) either with persons operating public passenger transport services within their area or with organisations appearing to the Authority to be representative of such persons;

and where the passenger transport area is in England and Wales the Authority shall also consult with the councils of the districts comprised in [^{F14}the county which is coterminous with or includes] that area about the requirements of transport arising out of or in connection with the exercise and performance by those councils of their functions as local education authorities or of their social services functions.

- (2) As soon as practicable after any occasion when they formulate new or altered policies for those purposes, the Authority concerned shall publish a statement of all policies so formulated by them on that or any previous occasion which for the time being apply in relation to the performance by the Executive for their area of their duty to secure services under section 9A(3).
- (3) When the Authority publish such a statement, they shall send a copy of the statement—
 - (a) to each Authority or council whom they were required to consult under subsection (1)(a) above; and
 - (b) to each of the persons or (as the case may be) organisations whom they consulted under subsection (1)(b) above;in relation to the formulation of their policies on the occasion in question.
- (4) The Authority shall also—
 - (a) cause a copy of the statement last published by them under subsection (2) above to be made available for inspection (at all reasonable hours) at such places as they think fit; and
 - (b) give notice, by such means as they think expedient for bringing it to the attention of the public, as to the places at which a copy of that statement may be inspected.]

Textual Amendments

F13 Ss. 9A, 9B inserted (with savings for s. 9A(8)) by Transport Act 1985 (c. 67, SIF 126), s. 57(2)(5)

F14 Words inserted by Transport Act 1985 (c. 67, SIF 126), s. 58(3)

10 General powers of Executive.

- (1) Subject to the provisions of this Act, the Executive for a [^{F15}designated][^{F15}passenger transport] area shall have power—
 - (i) to carry passengers by road within, to and from that area;
 - (ii) to carry passengers by any other form of land transport or by any form of water transport (including in either case hovercraft) between places in that area or

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between such places and any place outside that area but within the permitted distance, that is to say, [^{F16}the following distance from the nearest point on the boundary of that area, namely—

- (a) in the case of such an other form of land transport, such distance not exceeding twenty-five miles as may be specified in the order with respect to that area under section 9(1) of this Act or, if no distance of twenty-five miles;
 - (b) in the case of any form of water transport, such distance as may be specified as aforesaid;]^{F16}the distance of twenty-five miles from the nearest point on the boundary of that area;]
- (iii) so far as the Executive consider requisite—
- (a) in connection with the exercise of their powers under paragraph (i) or (ii) of this subsection, or
 - (b) in order to avoid an interruption of existing services which would otherwise result from an exercise by them of any of their functions under this Part of this Act,
- to carry passengers as mentioned in the said paragraph (i) or (ii) between places outside that area;
- (iv) in any vehicle or vessel used for the carriage of passengers in pursuance of paragraph (i), (ii) or (iii) of this subsection, or in a trailer drawn by any vehicle so used, to carry also luggage and other goods;
 - (v) to store within that area goods which have been or are to be carried by the Executive, and, so far as any premises provided for the purposes of that or any other part of their business are not required for those purposes, to use them to provide facilities for the storage of other goods;
 - (vi) to make payments to the Railways Board in respect of railway passenger services provided by the Board for meeting the needs of persons travelling within that area or between places in that area and places outside that area but within the permitted distance for the purposes of paragraph (ii) of this subsection;
 - (vii) with the approval of the Authority, to make arrangements with any person providing passenger transport services by air for the provision of such services between places in that area or between such places and places outside that area, and to include in such arrangements provision for the making of payments to that person by the Executive;
 - (viii) to let passenger vehicles on hire with or without trailers for the carriage of goods;
 - (ix) where an undertaking has been—
 - (a) transferred to the Executive under subsection (1) of section 17 of this Act; or
 - (b) wholly or partly resumed by the Executive under subsection (2)(b) of the said section 17; or
 - (c) acquired by the Executive otherwise than under the said section 17,
 to carry on (but, in a case falling within sub-paragraph (c) of this paragraph, only with the approval of the Authority) any activities which the Executive would not otherwise have power to carry on but which were carried on by that undertaking immediately before the date of that transfer, the date of the disposal which gave rise to that resumption, or the date of that acquisition, as the case may be;

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- (x) in places where persons using the services and facilities provided by the Executive may require them, to provide both for those and other persons facilities for the purchase and consumption of food and drink, places of refreshment and such other amenities or facilities as it may appear to the Executive requisite or expedient to provide;
- (xi) at any place where the Executive, in the exercise of their powers under paragraph (x) of this subsection, provide a car park, to repair motor vehicles for any persons, and to sell to any persons petrol, oil and spare parts and accessories for motor vehicles, whether or not those persons are using the car park;
- (xii) to provide interchange facilities for the purpose of enabling passengers travelling by one means of transport to continue their journey by another;
- (xiii) subject to section 15(2) of this Act [^{F17}and section 104(1) of the Transport Act 1985 (travel concessions on services provided by Passenger Transport Executives)], to demand, take and recover or waive such charges for the services and facilities provided by them, and to make the use of those services and facilities subject to such terms and conditions, as they think fit, so, however, that, without prejudice to any other limitation on the power conferred by this paragraph subsisting by virtue of subsection (7) of this section, this paragraph shall not be construed as entitling the Executive to carry passengers by any form of land or water transport on terms or conditions which—
 - (a) purport, whether directly or indirectly, to exclude or limit their liability in respect of the death of, or bodily injury to, any passenger; or
 - (b) purport, whether directly or indirectly, to prescribe the time within which or the manner in which any such liability may be enforced;
- (xiv) to construct, manufacture, produce, purchase, maintain and repair anything required for the purposes of their business;
- (xv) to enter into and carry out agreements with any person for the carrying on by that person, whether as agent for the Executive or otherwise, of any activities which the Executive have power to carry on, and in particular for the provision of combined services for the through carriage of passengers or goods, for the quoting of through rates, and for the pooling of receipts or expenses, to include in any such agreement provision for the making of payments to that person by the Executive, and to enter into any such agreement notwithstanding that it involves the delegation of functions of the Executive under any enactment relating to part of their undertaking;
- (xvi) with the approval of the Authority [^{F18}and the consent of the Minister], to make with any person with whom they have entered into an agreement under paragraph (xv) of this subsection for the carrying on by that person of any activities arrangements for the transfer from the Executive to that person in such manner and on such terms as may be provided for by the arrangements of any part of the undertaking or property of the Executive relevant to the carrying on of those activities;
- (xvii) to acquire by agreement any undertaking or part of an undertaking if the assets comprised in that undertaking or part are wholly or mainly assets which the Executive require for the purposes of their business;
- (xviii) for the purposes of the business of the Executive, to lend money to, or give a guarantee for the benefit of, any person for the purposes of an undertaking

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- carried on by that person, or, where that person is a body corporate, by any undertaking carried on by a subsidiary of that body corporate;
- (xix) for the purposes of the business of the Executive, to form, promote and assist, or join with any other person in forming, promoting and assisting, a company for carrying on any activities which the Executive have power to carry on, and, where that company is a subsidiary of the Executive, to transfer to that company any part of the undertaking or property of the Executive, and to subscribe for or acquire by agreement any securities of any body corporate;
- (xx) to acquire land by agreement—
- (a) for the purposes of their business; or
 - (b) with the approval of the Authority, for the purpose of adding it to and disposing of it with other contiguous land of theirs of which they propose to dispose;
- (xxi) to develop their land for the purposes of their business in such manner as they may think fit;
- (xxii) with the approval of the Authority—
- (a) to develop for use by other persons any part of their land which is not required for the purposes of their business; or
 - (b) where the use of their land for the purposes of their business can be combined with its use for other purposes, to develop the land by constructing or adapting buildings thereon for use wholly or partly by other persons; and
 - (c) where they propose to develop any of their land as mentioned in sub-paragraph (a) or (b) of this paragraph, to acquire by agreement adjoining land for the purpose of developing it together with the other land,
- with a view to selling or otherwise disposing of any right or interest in the land or, as the case may be, the buildings or any part of the buildings, after the development is carried out;
- (xxiii) subject, in the case of a disposal of land, to the approval of the Authority, to dispose (whether absolutely or for a terms of years) of any property which in their opinion is not required to be retained by them for the purposes of [^{F19}the discharge of their duty under section 9(3) of this Act][^{F19}their business;], and, in particular, to dispose of an interest in, or right over, any property which, subject to the interest or right, is retained by them;
- (xxiv) to do anything for the purposes of advancing the skill of persons employed by them or the efficiency of their equipment or of the manner in which that equipment is operated, including the provision by the Executive, and the assistance of the provision by others, of facilities for training, education and research;
- (xxv) to provide houses, hostels and other like accommodation for persons employed by them;
- (xxvi) to make loans to persons employed by them for the purpose of assisting those persons to acquire housing accommodation, and to guarantee loans made by building societies and other bodies to such persons for that purpose;
- (xxvii) to invest any sums which are not immediately required by them for the purposes of their business;
- (xxviii) to turn their resources to account so far as not required for the purposes of their business;

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- (xxix) with the approval of the Authority, to promote or oppose any Bill in Parliament;
 - (xxx) to establish and administer pension schemes and pension funds in the interest of persons who are or have been employed by the Executive and to pay pensions to or in respect of such persons, or to enter into and carry into effect agreements or arrangements with any other person for securing or preserving pension rights for such persons;
 - (xxxii) to provide for any person technical advice or assistance, including research services, as respects any matter in which the Executive have skill or experience;
 - (xxxiii) to do all other things which in their opinion are necessary to facilitate the proper carrying on of their business.
- (2) For the purposes of paragraphs (v), (x), (xiv) and (xxiv) to (xxvi) of subsection (1) of this section, goods carried by, services and facilities provided by, things required for the purposes of the business of, and persons employed by, a subsidiary of the Executive or, for the purposes of the said paragraphs (v), (x) and (xiv), by a person providing bus services in the area under an agreement with the Executive. . . ^{F20} shall be deemed to be goods carried by, services and facilities provided by, things required for the purposes of the business of, or persons employed by, that Executive.
- (3) If the Authority for a [^{F15}passenger transport] area so request in writing, the Minister may authorise the Executive for that area to purchase compulsorily any land which the Executive or any wholly-owned subsidiary of theirs require for the purposes of their business, and the ^{M1}[^{F21}Acquisition of Land Act 1981] shall [^{F22}apply as if the Executive were a local authority within the meaning of that Act, and as if this Act had been in force immediately before the commencement of that Act.][^{F22}apply to the compulsory purchase].
- (4) The power of purchasing land compulsorily in subsection (3) of this section shall include power to acquire an easement or other right in, over or under land by the creation of a new right; but this subsection shall not apply to an easement or other right in, over or under any land which would for the purposes of the [^{F23}Acquisition of Land Act 1981] form part of a common, open space or fuel or field garden allotment.
- (5) The Ferries (Acquisition by Local Authorities) ^{M2}Act 1919 shall apply to the Executive for a [^{F15}passenger transport] area as if the Executive were within the meaning of that Act a local authority for that area.
- (6) Part I of the Harbours, Piers and Ferries (Scotland) ^{M3}Act 1937 shall apply to the Executive for a [^{F15}passenger transport] area as if that area were a [^{F24}region] and the Executive were the council of that [^{F24}region].
- (7) Each of the powers conferred by the foregoing provisions of this section shall be deemed to be in addition to, and not in derogation of, any other of them; but it is hereby declared that those provisions relate only to the capacity of the Executive for a [^{F15}passenger transport] area as a statutory corporation and nothing in those provisions shall be construed as authorising the disregard by the Executive of any enactment or rule of law, or any requirement of this Part of this Act as to the approval of the Authority or the consent of the Minister for a particular exercise of any of those powers.
- (8) It shall be the duty of an Executive who have a subsidiary to exercise their control over the subsidiary so as to ensure that the subsidiary does not engage in activities

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in which the Executive have no power to engage (including activities in which the Executive have no power to engage because any requisite consent or approval has not been obtained).

- (9) In the application of subsections (3) and (4) of this section to Scotland there shall be substituted—
- (a) for the references to the ^{M4}[^{F25}Acquisition of Land Act 1981] references to the ^{M5}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947; and
 - (b) for the references to an easement references to a servitude;
- and the reference in the said subsection (4) to a fuel or field garden allotment shall be omitted.

Textual Amendments

- F15** Words “passenger transport” substituted (E.W.S.) for words “designated” by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 2(a)**
- F16** Words commencing “the distance of” substituted (E.W.S.) for words commencing “the following distance” by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 4(a)(i)**
- F17** Words inserted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 139(2), **Sch. 7 para. 7**
- F18** Words repealed (E.W.S.) by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 29** and Local Government Act 1974 (c. 7, SIF 81:2), **Sch. 8**
- F19** Words “their business” substituted (E.W.S.) for words commencing “the discharge” by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 4(a)(ii)**
- F20** Words repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 4(b)**, Sch. 8
- F21** Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(2)(a)**
- F22** Words “apply to the compulsory purchase” substituted (E.W.) for words from “apply as if” to “that Act” by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(2)(b)**
- F23** Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(3)(a)**
- F24** Word substituted by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 18 para. 2(b)**
- F25** Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(2)(b)**

Modifications etc. (not altering text)

- C6** Power to exclude s. 10(1)(i) conferred (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 60(5)**
- C7** Power to repeal s. 10(1)(i) conferred (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 60(7)(8)**
- C8** Power to exclude s. 10(1)(viii) conferred (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 60(5)**
- C9** Power to repeal s. 10(1)(viii) conferred (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 60(7)(8)**
- C10** S. 10(1)(xiii) restricted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 104(1)**
- C11** S. 10(1)(xv) restricted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 82(5)**

Marginal Citations

- M1** 1981 c. 67.(28:1).
- M2** 1919 c. 75.
- M3** 1937 c. 28.
- M4** 1981 c. 67.(28:1)
- M5** 1947 c. 42(28:2)

11 Financial duty of Executive.

- [^{F26}(1) The Executive for a designated area shall so perform their functions under this Act as to ensure so far as practicable that the cumulative net balance of the consolidated

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revenue account of the Executive and any subsidiaries of theirs does not show a deficit at the end of any accounting period of the Executive after taking into account any amount which, at the date when that period ends, has been specified in a notice under [F27 section 13(2)] of this Act in respect of expenditure incurred before that date but has not yet been received by the Executive.]

- (2) In respect of each accounting period of the Executive, the Executive shall charge to revenue account, and secure that any subsidiary of theirs so charges, all charges which are proper to be made to revenue account, including, in particular, proper provision for the depreciation or renewal of assets.
- (3) The Executive may make charges to capital account representing interest on expenditure of a capital nature for any period which ends with or before the end of the accounting period in which the project or scheme to which the expenditure relates is completed.
- [F28(3A) Without prejudice to any power of the Executive to establish specific reserves, the Executive may establish and maintain a general reserve, and the Authority may give to the Executive directions as to any matter relating to the establishment or management of any such general reserve and the carrying of sums to the credit thereof, or the application thereof; but no part of the moneys comprised in such a general reserve shall be applied otherwise than for purposes of the Executive or a subsidiary of theirs.]
- [F29(4) The Executive shall from time to time, at such times, in such form and manner, and as respects such periods, as the Minister may after consultation with the Authority require, submit to the Minister a statement approved by the Authority of the Executive's proposals for expenditure on capital account by the Executive and any subsidiaries of theirs; and—
 - (a) the Minister may from time to time by notice in writing to the Executive impose a limit on such expenditure by the Executive and their subsidiaries; and
 - (b) the Executive shall secure that any such expenditure is restricted within that limit.]
- (5) If any of the councils of constituent areas so request the Executive in writing, the Executive shall send to that council a copy of any statement submitted by the Executive to the Minister under subsection (4) of this section.]

Textual Amendments

- F26** S. 11(1) repealed (E.W.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), ss. 57(6), 139(3), [Sch. 3 para. 5](#), [Sch. 8](#)
- F27** Words substituted (S.) by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 18 para. 3](#)
- F28** S. 11(3A) inserted (E.W.) by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), s. 202(2), [Sch. 24 para. 2](#) and (S.) by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), [Sch. 18 para. 3](#)
- F29** S. 11(4)(5) repealed (S.) by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#) and (E.W.) by [Local Government Act 1974 \(c. 7\)](#), [Sch. 8](#)

12 Borrowing powers of Executive.

- (1) The provisions of this section shall have effect with respect to borrowing by the Executive for a [F30 designated][F30 passenger transport] area.

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- (2) The Executive may borrow temporarily, by way of overdraft or otherwise, from any person such sums as they may require for meeting their obligations and discharging their functions under this Part of this Act; but the Executive shall ensure that the aggregate of the amounts outstanding in respect of any temporary loans raised by the Executive under this subsection or raised by any subsidiary of the Executive does not at any time exceed such amount as the Authority for the area may for the time being have approved.
- (3) The Executive may, with the approval of the Authority for the area, borrow otherwise than by way of temporary loan from any person and in any manner such sums as the Executive may require for all or any of the following purposes, namely—
 - (a) for meeting any expenses properly chargeable to capital, being expenses incurred in connection with the provision or improvement of assets in connection with their business;
 - (b) for the provision of working capital;
 - (c) for acquiring an undertaking or part of an undertaking;
 - (d) for the making of any payment which they are required by or under this Part of this Act to make by way of compensation. . . .^{F31}
 - (e) for subscribing for or acquiring securities of a body corporate otherwise than by way of investment;
 - (f) for the payment of interest charged to capital account under section 11(3) of this Act;
 - (g) to pay off any debt incurred by the Executive or any liability assumed by or transferred to the Executive in pursuance of this Part of this Act;
 - (h) for making any loan, or fulfilling any guarantee given, in pursuance of the powers conferred by section 10(1)(xviii) of this Act;
 - (j) for any purpose for which capital moneys are properly applicable, whether or not specified in the foregoing paragraphs of this subsection;

and the Executive shall exercise their control over any subsidiary of theirs so as to ensure that the subsidiary does not borrow otherwise than by way of temporary loan from any person without the approval of the Authority or for any purpose other than purposes of the subsidiary such as are specified in paragraphs (a) to (e) and (j) of this subsection or for paying off any debt incurred by the subsidiary.

- (4) [^{F32}Each of the councils of constituent areas][^{F32}The Authority for the Executive’s area] shall have power to lend money to the Executive [^{F33}but only if the rate of interest payable by the Executive to the Authority in respect of the loan is not less than that which would be payable by the Authority if they were to borrow the same sum on equivalent terms (disregarding any terms as to interest) from another person]
- (5) All moneys borrowed by the Executive shall be charged indifferently on all their revenues, and all securities created by the Executive shall rank equally without any priority; but nothing in this subsection shall—
 - (a) apply to any money borrowed by way of temporary loan without security; or
 - (b) affect any right to priority conferred by a security for any liability assumed by or transferred to the Executive in pursuance of this Act.

^{F34}(6)

- (7) The Executive shall be deemed to be a local authority for the purposes of—
 - (a) the enactments relating to loans by or borrowing from the Public Works Loan Commissioners;

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(b) M6

Textual Amendments

- F30** Words substituted (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), [S. 57\(6\)](#), [Sch. 3 para 2\(a\)](#)
- F31** Words repealed by [Transport Act 1985 \(c. 67, SIF 126\)](#), [ss. 57\(6\), 139\(3\)](#), [Sch. 3 para. 6\(a\)](#), [Sch. 8](#)
- F32** Words substituted (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), [s. 57\(6\)](#), [Sch. 3 para. 6\(b\)\(i\)](#)
- F33** Words substituted (E.W.S.) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), [s. 194\(1\)](#), [Sch. 11 para. 16](#)
- F34** [S. 12\(6\)](#) repealed (E.W.) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), [s. 194\(2\)](#), [Sch. 12 Part I](#), and (E.W.S.) (11.2.1991) by [Government Trading Act 1990 \(c. 30, SIF 99:1\)](#), [s. 4\(2\)](#), [Sch. 2 Pt. I](#); [S.I. 1991/132](#), [art. 2](#); and repealed (N.I.) (1.4.1991) by [S.I. 1991/761](#), [art. 9\(2\)](#), [Sch. 2](#); [S.R. 1991/116](#), [art.2](#)

Modifications etc. (not altering text)

- C12** [S. 12\(2\)](#) amended (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), [s. 133\(2\)](#)
- C13** [S. 12\(3\)\(d\)](#) amended (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), [s. 133\(2\)](#)
- C14** [S. 12\(3\)\(g\)](#) amended (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), [s. 133\(2\)](#)
- C15** [S. 12\(5\)\(b\)](#) amended (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), [s. 133\(2\)\(b\)](#)

Marginal Citations

- M6** [1975 c. 30](#)

[^{F35}13 Power of regional councils to make grants. **E+W+S**

- (1) Without prejudice to any other power of a regional council to make grants for transport purposes, a regional council who are the Authority shall have power to make grants to the Executive for any purpose.
- (2) The regional council shall from time to time by notice in writing to the Executive specify the amount of the grants which the council propose to make to the Executive in respect of expenditure incurred during any accounting period.]

Textual Amendments

- F35** [S. 13](#) substituted (S.) by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 18 para. 5](#)

[^{F83}13 Power to make grants. **E+W**

The Authority shall have power to make grants to the Executive for any purpose.]

Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

- F83** [S. 13](#) substituted (E.W.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), [s. 57\(6\)](#), [Sch. 3 para. 7](#)

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VALID FROM 03/11/1994

[^{F36}13A Guarantees by Authority.

The Authority may guarantee any obligation entered into by the Executive with the approval of the Authority.]

Textual Amendments

F36 S. 13A inserted (S.) (3.11.1994) by 1994 c. 39, ss. 163, 184(2)

14 Accounts of Executive.

- (1) The Executive for a [^{F37}designated][^{F37}passenger transport] area shall—
- (a) cause proper accounts and other records in relation to their business to be kept; [^{F38}and
 - (b) prepare an annual statement of accounts in respect of such accounting period, in such form, and containing such particulars, compiled in such manner, as the [^{F39}Minister][^{F39}Authority] may from time to time direct.]
- [^{F40}(2) The accounts of the Executive shall be audited by an auditor or auditors to be appointed annually by the Authority for the area, and any person so appointed as auditor shall be either the district auditor or some other person who is a member, or is a firm in Scotland each of the partners wherein is a member, of one or more of the following bodies, namely—
- the Institute of Chartered Accountants in England and Wales;
 - the Institute of Chartered Accountants of Scotland;
 - the Association of Certified and Corporate Accountants;
 - the Institute of Chartered Accountants in Ireland;
 - the Institute of Municipal Treasurers and Accountants;
 - any other body, being a body of accountants established in the United Kingdom who are for the time being recognised for the purposes of [^{F41}section 389(1)(a) of the Companies Act 1985 by the Secretary of State];
- and any auditor so appointed shall be entitled to require from any officer of the Executive or of any subsidiary of theirs such books, deeds, contracts, accounts, vouchers, receipts, and other documents, and such information and explanations, as may be necessary for the performance of his duties.]
- [^{F42}(3) So soon as the accounts of the Executive have been audited as aforesaid, they shall send a copy of the statement of accounts referred to in subsection (1)(b) of this section to the Minister, [^{F43}and] to the Authority[. . . ^{F44}for the designated area] [^{F45}and to each of the councils of constituent areas,] together with a copy of the report made by the auditor or auditors on that statement.]
- [^{F42}(3) As soon as the accounts of the Executive for any accounting period have been audited in accordance with Part III of the Local Government Finance Act 1982 they shall send a copy of any statement of accounts prepared by them for that period pursuant to regulations under section 23 of that Act to the Minister, to the Authority [^{F46}and to each of the councils of the districts comprised in the county which is coterminous

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with or includes the Executive's area], together with a copy of the auditor's opinion on that statement.]

Textual Amendments

- F37** Words substituted (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 57(6), **Sch. 3 para. 2(a)**
- F38** Word "and" and s. 14(1)(b) repealed (E.W.) with saving by [Local Government Finance Act 1982 \(c. 32, SIF 81:1\)](#), S. 38(5), **Sch. 6 Pt. IV**
- F39** Word "Authority" substituted (S.) for word "Minister" by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), **Sch. 18 para. 6(a)**
- F40** S. 14(2) repealed (E.W.) with saving by [Local Government Finance Act 1982 \(c. 32, SIF 81:1\)](#), s. 38(5), **Sch. 6 Pt. IV**
- F41** Words substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985](#), (c. 9, SIF 27), s. 30, Sch. 2
- F42** S. 14(3) as second appears substituted (E.W.) for s. 14(3) as first appears with saving by [Local Government Finance Act 1982 \(c. 32, SIF 81:1\)](#), s. 34, **Sch. 5 para. 3**
- F43** Word inserted (S.) by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 18 para. 6(b)**
- F44** Words repealed (S.) by [Transport Act 1985 \(c.67, SIF 126\)](#), ss. 57(6), 139(3), Sch. 3 para. 9, **Sch. 8**
- F45** Words repealed (S.) by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29** and repealed (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 57(6), **Sch. 3 para. 21(3)(b)**
- F46** Words substituted (E.W.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 57(6), **Sch. 3 para. 8**

Modifications etc. (not altering text)

- C16** S. 14(1)(a) excluded (E.W.) by [Local Government Finance Act 1982 \(c. 32, SIF 81:1\)](#), s. 31(3)

15 Further functions of Authority.

- (1) The Executive for a [^{F47}designated][^{F47}passenger transport] area shall submit to the Authority and obtain the Authority's approval of—
- [^{F48}(a) any proposal for a major reorganisation of any transport services provided within or to and from that area;]
 - [^{F49}(b) all annual or other estimates of income and expenditure prepared by the Executive or any subsidiary of theirs;
 - (c) any proposal for the development or extension of any services or facilities provided by the Executive or any subsidiary of theirs or provided in pursuance of arrangements with the Executive which involves a substantial outlay on capital account;]
 - [^{F49}(b) such annual or other estimates of income or expenditure of the Executive and any subsidiaries of theirs as the Authority may require to be submitted to the Authority, and any major change proposed to be made in any of those estimates after their approval by the Authority;
 - (c) any proposal for expenditure by the Executive or any subsidiary of theirs, or by any other person in pursuance of arrangements with the Executive, which involves a substantial outlay on capital account].
 - (d) any agreement proposed to be entered into by the Executive otherwise than under section 20(2)(b) of this Act with the Railways Board for the provision by the Board of any railway passenger services within, or to and from, that area;
- (2) The Executive shall obtain the approval of the Authority—

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- (a) before making, or authorising or consenting to the making of, any alteration in the general level of charges for the transport services or facilities provided by the Executive or any subsidiary of theirs [^{F50}or provided by any person in pursuance of an agreement with the Executive under section 19(2) of this Act]; and
- (b) subject to section [^{F51}138(1) of this Act][^{F51}104(2) of the Transport Act 1985 (travel concessions on services provided by Passenger Transport Executives)], for any proposal of the Executive for reducing or waiving those charges in a particular case or cases of a particular class;

[^{F52}and, without prejudice to subsection (4) of this section, the Authority shall before giving or withholding any approval required by virtue of paragraph (a) of this subsection have regard in particular to the extent to which their decision will affect the amount [^{F53}to be raised by precepts or, in Scotland, requisitions under section 13 of this Act,][^{F53}of the grants which will be needed to enable the Executive to comply with their obligation under section 11(1) of this Act][^{F54}and, in the case of services or facilities provided in pursuance of such an agreement as is mentioned in the said paragraph (a), to the terms of the agreement.]]

[^{F55}(3) If the Authority are satisfied that a particular passenger transport service which the Executive have power to provide is required to meet the needs of their [^{F47}designated][^{F47}passenger transport] area, but the Executive are not willing to provide it or to arrange for its provision because they consider that the cost of providing it would be too high in relation to the contribution which it would make to the needs of the area, the Authority may give the Executive a direction requiring the Executive to provide or secure the provision of that service, and the Executive shall comply with that direction; but on giving any such direction the Authority shall, unless the Executive agree to the contrary in writing, give the Executive a written undertaking [^{F56}to issue a precept][^{F56}to make a grant] under section 13 of this Act to meet any cost incurred by the Executive in consequence of the direction.]

[^{F57}(4) The Authority, in exercising or performing any of their functions under this Part of this Act, shall have regard to the duty imposed on the Executive by subsection (1) of section 11 of this Act, [^{F58}to the provisions of subsection (4) of that section, and to any limit on capital expenditure by the Executive and their subsidiaries imposed by the Minister under the said subsection (4).]]

- (5) Any expenditure incurred by the Authority in performing their functions under this Part of this Act shall be defrayed by the Executive.
- (6) Notwithstanding anything in this Part of this Act, nothing done by the Executive for a [^{F47}designated][^{F47}passenger transport] area shall be held to be unlawful on the ground that the approval of the Authority for that area to the doing of that thing was required by or under this Part of this Act and that it was done without obtaining that approval; but if it appears to the Authority that the Executive propose to do anything, or have done anything, without the approval of the Authority which in the opinion of the Authority requires that approval, the Authority may, after consultation with the Executive, give to the Executive such directions as appear to the Authority to be appropriate to secure so far as practicable the observance of the rights of the Authority in relation to the doing of that thing, and those directions may include directions to discontinue any specified activity or dispose of any specified assets; and the Executive shall comply with any such directions notwithstanding that they may result in the Executive having to dispose of any assets at a loss or incurring liability to other persons.

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- (7) Any approval or direction given by the Authority in pursuance of this Part of this Act shall be given in writing.

Textual Amendments

- F47** Words “passenger transport” substituted (E.W.S.) for word “designated” by **Transport Act 1985 (c. 67, SIF 126), s. 57(6), Sch. 3 para. 2(a)**
- F48** S. 15(1)(a) repealed (E.W.S.) by **Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 10(1)(a), Sch. 8**
- F49** S. 15(1)(b)(c) beginning “such annual” substituted (E.W.)(S.) for s. 15(b)(c) beginning “all annual” by **Local Government Act 1972 (c. 70, SIF 81:1), s. 202(2), Sch. 24 para. 5** and **Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), Sch. 18 para. 7(a)**
- F50** Words repealed (E.W.S.) by **Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 10(1)(b), Sch. 8**
- F51** Words commencing “104(2)” substituted (E.W.S.) for words commencing “138(1)” by **Transport Act 1985 (c. 67, SIF 126), s. 139(2), Sch. 7 para. 8**
- F52** Words repealed (E.W.) by **Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 10(2)(a), Sch. 8**
- F53** Words “of the grants” to “Act” substituted (S.) for words “to be raised” to “Act” by **Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), Sch. 18 para. 7(b)**
- F54** Words repealed (S.) by **Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 10(3), Sch. 8**
- F55** S. 15(3) repealed (E.W.S.) by **Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 10(1)(c), Sch. 8**
- F56** Words “to make a grant” substituted (S.) for words “to issue a precept” by **Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), Sch. 18 para. 7(c)**
- F57** S. 15(4) repealed (E.W.) by **Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 10(2)(b), Sch. 8**
- F58** Words repealed (E.W.)(S.) by **Local Government Act 1974 (c. 7, SIF 81:2), Sch. 8** and **Local Government (Scotland) Act 1975 (c. 30, SIF 81:2), Sch. 7**

Modifications etc. (not altering text)

- C17** S. 15(2) modified (E.W.S.) by **Transport Act 1985 (c. 67, SIF 126), s. 104(2)**
- C18** S. 15(2) excluded (27.7.1993) by **1993 c. xv, s. 66(5)**
- C19** S. 15(2)(a) modified (E.W.) by **Transport Act 1983 (c. 10, SIF 126), s. 6(6)(a)**
- C20** S. 15(2)(a) amended (E.W.) by **Transport Act 1983 (c. 10, SIF 126), s. 6(7)**
- C21** S. 15(2)(b) modified (E.W.S.) by **Transport Act 1985 (c. 67, SIF 126), s. 139(1), Sch. 6 para. 24**
- C22** S. 15(5) extended (E.W.) by **Transport Act 1983 (c. 10, SIF 126), ss. 9(3), 10(1)(a)**
- C23** S. 15(5) amended (E.W.S.) by **Transport Act 1985 (c. 67, SIF 126), s. 133(2)**

[^{F59}15A Additional provisions as to control of Executive by Authority.

[In addition to any power of the Authority under any other provision of this Part of ^{F60}(1) this Act to give directions to the Executive as respects any matter, the Authority may give to the Executive directions as to the exercise and performance by the Executive of their functions (including the exercise of rights conferred by the holding of interests in companies) in relation to matters appearing to the Authority to affect the carrying out by the Authority or the Executive of their respective duties under section 9(3) of this Act.]

- (2) The Executive shall provide the Authority at such time or intervals and in such form and manner as the Authority may require with information with respect to the

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operations and the expenditure on capital and revenue account respectively which are planned or under consideration by the Executive and shall furnish the Authority with such returns, accounts and other information with respect to the property and activities of the Executive or any subsidiary of theirs as the Authority may from time to time require.

- (3) The Authority may from time to time cause a review to be made of the organisation of the Executive's undertaking and may give to the Executive such directions as appear to the Authority from any such review to be requisite to secure that the Executive's undertaking is organised in the most efficient manner; and the Executive shall not make, or permit to be made, any substantial change in the manner in which their undertaking is organised except in pursuance of a direction given by the Authority under this subsection, or with the approval of the Authority.]

Textual Amendments

- F59** S. 15A inserted (E.W.) by Local Government Act 1972 (c. 70, SIF 81:1), s. 202(2), **Sch. 24 para. 4** and (S.) by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 18 para. 8**
- F60** S. 15A(1) repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 11, Sch. 8**

16 Publication of annual report by Authority and Executive and prevention of improper conduct of subsidiary activities.

- (1) The Authority for any [^{F61}area designated by an order under section 9(1) of this Act][^{F61}passenger transport area] shall as soon as practicable after the end of each accounting period of the Executive cause to be prepared jointly by the Authority and the Executive, and to be published in such manner [^{F62}as the Minister may direct][^{F62}as the Authority consider appropriate] a report on the exercise and performance by the Authority and the Executive of their respective functions during that period, including in particular any matters which by virtue of paragraph 15 of Part III of Schedule 5 to this Act are required [^{F63}by the order aforesaid][^{F63}by any order made, or having effect as if made, under section 9(3) of this Act] to be dealt with in the report.
- (2) Where the activities of the Executive or any subsidiary of theirs include the carrying on of the business of providing services for the carriage of passengers by road [^{F64}which do not, [^{F65}and if section 19(3)(a) of this Act had not passed would not], require authorisation by a road service licence][^{F64}other than local services], the report under this section for any accounting period shall include a statement of—
- (a) the amount, as determined by the Executive, of the turnover of the Executive or subsidiary for that period in respect of that business;
 - (b) the extent or approximate extent (expressed in either case in monetary terms) to which, as so determined, the carrying on of that business contributed to, or restricted, the profit or loss of the Executive or subsidiary for that period before taxation;
 - (c) the method by which any determination for the purposes of paragraph (a) or (b) of this subsection was arrived at; [^{F66}and
 - (d) such further information, if any, relating to the carrying on by the Executive or subsidiary of that business as the Minister may from time to time direct.]
- [^{F67}(3) If, where the Executive or any subsidiary of theirs carry on such business as aforesaid, it appears at any time to the Minister that, having regard to all the circumstances

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appearing to the Minister to be relevant, the charges made for the services aforesaid provided by the Executive or subsidiary are unduly low in comparison with the cost of providing them, the Minister shall, after consultation with the Authority and with the Executive, either—

- (a) direct the Executive to make, or, as the case may be, to ensure that the subsidiary makes, such modifications in their or its method of conducting that business as may be specified in the direction; or
 - (b) direct the Executive to discontinue, or, as the case may be, to ensure that the subsidiary discontinues, that business.
- (4) The Minister may by order provide that subsections (2) and (3) of this section shall apply with or without modifications to any specified business of the Executive or any subsidiary of theirs which appears to the Minister to be of a character only subsidiary or incidental to the discharge of the Executive's duty under section 9(3) of this Act and to be carried on on a substantial scale as those subsections apply to the business referred to in the said subsection (2).
- (5) The Executive shall secure that no subsidiary of theirs carries on any business with respect to which the Minister has given the Executive a direction under subsection (3) (b) of this section]

Textual Amendments

- F61** Words commencing "passenger" substituted (E.W.S.) for words commencing "area designated" by [Transport Act 1985 \(c. 67, SIF 126\), s. 57\(6\), Sch. 3 para. 12\(a\)\(i\)](#)
- F62** Words "as the Authority consider appropriate" substituted (E.W.S.) for words "as the Minister may direct" by [Local Government Act 1972 \(c. 70, SIF 81:1\), s. 202\(2\), Sch. 24 para. 6](#) and [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\), Sch. 18 para. 9](#)
- F63** Words commencing "by any order" substituted (E.W.S.) for words commencing "by the order" by [Transport Act 1985 \(c. 67, SIF 126\), s. 57\(6\), Sch. 3 para. 12\(a\)\(ii\)](#)
- F64** Words substituted (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\), s. 139\(2\), Sch. 7 para. 9](#)
- F65** Words expressed to be repealed (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\), ss. 57\(6\), 139\(3\), Sch. 3 para. 12\(b\)](#), Sch. 8
- F66** Words repealed (S.) by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#) and (E.W.) by [Local Government Act 1974 \(c. 7, SIF 81:1\), Sch. 8](#)
- F67** S. 16(3)–(5) repealed (E.W.) (S.) by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#) and [Local Government Act 1974 \(c. 7\), Sch. 8](#)

Modifications etc. (not altering text)

- C24** S. 16 amended by [Transport Act 1983 \(c. 10, SIF 126\), s. 8\(5\)](#)
- C25** S. 16(2) excluded (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\), s. 60\(6\)](#)

Reorganisation of passenger transport in Passenger Transport Areas

[^{F68}17 **Transfer to Executive of local authority transport undertakings.**

- (1) In the case of each designated area the Minister shall by order make provision—
- (a) with respect to any of the councils of constituent areas in the case of whom, on such date as may be appointed by the order, either—
 - (i) the council are carrying on, or are a member of some other body which is carrying on, an undertaking which either is at that date a

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road passenger transport, ferry or railway undertaking or was on the identifying date (that is to say, 8th December 1967 or a date five years before the date of the making of the order, whichever is the later) comprised in such an undertaking; or

- (ii) any of the members of any such other body fall to be appointed by the council,

for the transfer on the date so appointed to the Executive from that council of all interests of that council in such fixed or movable property, and of all such rights and liabilities of that council, as may be determined by or under the order, being property, rights and liabilities which are on the date so appointed, or have at any time since the identifying date been, property used, rights enjoyed or liabilities incurred for or in connection with the purposes of that undertaking;

- (b) for the transfer to the Executive (subject to paragraph 11(c) of Part III of Schedule 5 to this Act) of all property, rights and liabilities of, and for the dissolution of, any such other body as aforesaid which may be specified in the order, being a body in the case of which in consequence of provision made under paragraph (a) of this subsection no person other than the Executive or persons appointed by the Executive are entitled to be or become members;
 - (c) for the transfer to the Executive from any of the councils of constituent areas or any body specified for the purposes of paragraph (b) of this subsection of all such powers and duties as may be determined by or under the order, being powers or duties conferred or imposed on that council or body by or under any Act for the purposes of or in connection with any such undertaking as is referred to in paragraph (a) of this subsection;
 - (d) for the transfer to the service of the Executive of all such persons as may be determined by or under the order, being persons who immediately before the date appointed as aforesaid are employed by any of the councils of constituent areas or any body specified for the purposes of paragraph (b) of this subsection and who either are on that date or were on the identifying date aforesaid so employed in connection with any such undertaking as is referred to in paragraph (a) of this subsection;
 - (e) for the protection of the interests of persons transferred by the order to the service of the Executive.
- (2) Any order under subsection (1) of this section may contain such supplementary, incidental and consequential provision as the Minister thinks necessary or expedient for the purposes of the order, and in particular, but without prejudice to the generality of the foregoing provisions of this subsection, may include provision—
- (a) for the assumption by any council such as is mentioned in subsection (1)(a)(i) of this section and by the Executive of such liabilities to one another as may be determined by or under the order to be appropriate having regard to the financial arrangements of that council before the severance of the undertaking so mentioned from the other activities of that council;
 - (b) for—
 - (i) the exclusion from transfer to, or the disclaimer by, the Executive of any property acquired or contract entered into for the purposes of any undertaking affected by the order or any variation made in such a contract; or

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- (ii) the resumption by the Executive of any property, rights or liabilities formerly included in any such undertaking which have been disposed of before the transfer date; or
 - (iii) the resumption by the Executive of any interests in property, rights and liabilities of any of the councils of constituent areas, being property used, rights enjoyed or liabilities incurred for or in connection with the purposes of a road passenger transport, ferry or railway undertaking to which subsection (1)(a) of this section would have applied but for a disposal of the undertaking before the date appointed under the said subsection (1)(a), and whether before or after the making of the order,
if the acquisition of that property, the making of that contract or variation, or that disposal, took place after such date as may be specified in the order, not being earlier than the identifying date referred to in the said subsection (1)(a), and was not reasonably necessary or expedient for the purposes of the undertaking or was an act of unreasonable imprudence on the part of the person carrying on the undertaking;
- (c) for the payment by such of the councils of constituent areas as are concerned of compensation to any person from whom any property, rights and liabilities are resumed by the Executive by virtue of paragraph (b)(ii) or (iii) of this subsection;
 - (d) for the settlement by a court or otherwise of any dispute or other matter arising in connection with the order;
 - (e) for securing that any undertaking affected by the order is properly carried on and maintained pending any relevant transfer under the order;
 - (f) for making in any Act, or in any instrument made under an Act, being an Act or instrument relating to, or to a class of undertakings which includes, any undertaking affected by the order, such modifications or repeals as may appear to the Minister to be required in consequence of any transfer under the order;
 - (g) for the making by the Executive to any council such as is mentioned in subsection (1)(a)(i) of this section of payments by way of contributions to the cost of any adjustments arising from the severance of the undertaking so mentioned from the other activities of that council.
- (3) Section 1(1) to (5) of the ^{M7}Water Officers Compensation Act 1960 (which relates to compensation for loss of employment, etc., attributable to certain orders) shall apply to an order under subsection (1) of this section as it applies to the orders referred to in subsection (1) of that section but as if the definition of “the appropriate Minister” in subsection (4) of that section were omitted and for any other reference in that section to the appropriate Minister there were substituted a reference to the Minister; and the Minister shall exercise as respects any order under subsection (1) of this section the power to make regulations conferred by the said section 1 as applied by this subsection.
- (4) Before making an order under subsection (1) of this section with respect to any designated area the Minister shall consult with any such councils of constituent areas as are referred to in paragraph (a), and any such other bodies as are referred to in paragraph (b), of that subsection; and those councils or bodies shall furnish the Minister with such information as he may reasonably require for the purpose of making the order.
- (5) Subject to subsection (6) of this section, any property or interests in property, rights and liabilities for the transfer of which provision is made by an order under subsection (1)

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of this section shall on the date appointed for the purpose by the order be transferred, and by virtue of this Act vest, in accordance with the order.

- (6) Schedule 4 to this Act shall apply to any transfer under subsection (5) of this section and that subsection shall have effect subject to the provisions of that Schedule; but—
 - (a) for the purposes of an order under subsection (1) of this section with respect to an area in Scotland or Wales, any reference in that Schedule to the Minister shall be construed as a reference to the Secretary of State;
 - (b) any order under the said subsection (1) may make modifications in that Schedule for the purposes of its application to a transfer effected by that order.]

Textual Amendments
F68 S. 17 repealed (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), ss. 57(6), 139(3), Sch. 3 para. 1, [Sch. 8](#)

Marginal Citations
M7 1960 c. 15.

18, 19. ^{F69}

Textual Amendments
F69 Ss. 18, 19 repealed by [Transport Act 1985 \(c. 67, SIF 126\)](#), ss. 57(6), 139(3), Sch. 3 para. 1, [Sch. 8](#)

20 Special duty of certain Executives with respect to railway passenger services.

- (1) ^{F70}
- (2) Without prejudice to their [^{F71}duty under section 9A(3)] of this Act, it shall be the special duty of the Executive for a [^{F72}passenger transport] area. . . ^{F73}—
 - (a) to. . . ^{F74} keep under review, the railway passenger services provided by the Railways Board for meeting the needs of persons travelling between places in that area or between such places and places outside that area but within the permitted distance for the purposes of section 10(1)(ii) of this Act as it applies to that Executive; and
 - (b) without prejudice to the general powers of the Executive under section 10 of this Act, to enter into such agreements with that Board as the Authority may approve for securing that the Board provide such railway passenger services as the Authority [^{F75}consider it appropriate to secure to meet any public transport requirements within that area].
- (3) The Railways Board shall furnish the Executive with any information which the Executive may reasonably require for the purposes of the discharge of their functions under subsection (2) of this section.
- (4) Without prejudice to the general power of the Executive under section 10(1)(vi) of this Act, any agreement under this section may include provision for the making of payments by the Executive to the Railways Board in respect of the railway passenger services provided by the Board in pursuance of the agreement.

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- (5) Before entering into any agreement under this section, the Executive shall send a copy of the proposed agreement to the Minister; but a failure to comply with this subsection shall not affect the validity of the agreement.
- (6) If any dispute arises between the Executive and the Railways Board in connection with the provisions of subsection (2) or (3) of this section, either of them may require the dispute to be referred to the Minister for determination, and any agreement under the said subsection (2) may include provision for any dispute in connection with the agreement to be so referred; and where any dispute is referred to the Minister under or by virtue of this subsection, then, subject to subsection (7) of this section, the Minister may give such directions to the Executive and the Board with respect to the dispute as he thinks fit.
- (7) Before giving any directions under subsection (6) of this section to the Executive for a [^{F72}passenger transport] area in Scotland or Wales the Minister shall consult with the Secretary of State.
- (8) ^{F76}

Textual Amendments

- F70** S. 20(1) repealed by [Transport Act 1985 \(c. 67, SIF 126\)](#), ss. 57(3), 139(3), **Sch. 8**
- F71** Words substituted by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 57(6), **Sch. 3 para. 13(a)(i)**
- F72** Word substituted by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 57(6), **Sch. 3 para. 2(a)**
- F73** Words repealed by [Transport Act 1985 \(c. 67, SIF 126\)](#), ss. 57(6), 139(3), **Sch. 3 para. 13(a)(ii)**, Sch. 8
- F74** Words repealed by [Transport Act 1985 \(c. 67, SIF 126\)](#), ss. 57(6), 139(3), **Sch. 3 para. 13(a)(iii)**, Sch. 8
- F75** Words substituted by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 57(6), **Sch. 3 para. 13(a)(iv)**
- F76** S. 20(8) repealed by [Transport Act 1985 \(c. 67, SIF 126\)](#), ss. 57(6), 139(3), **Sch. 3 para. 13(b)**, Sch. 8

Modifications etc. (not altering text)

- C26** S. 20 extended (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 57(3)

21 ^{F77}

Textual Amendments

- F77** S. 21 repealed by [Transport Act 1985 \(c. 67, SIF 126\)](#), ss. 57(6), 139(3), **Sch. 3 para. 1**, **Sch. 8**

General

22 Provisions as to regulations and orders under Part II.

- (1) In relation to orders. . . ^{F78} made under this Part of this Act, the provisions of this section shall have effect in addition to the provisions of section 157 of this Act.
- (2) Any order. . . ^{F78} made under this Part of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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(3) F79

Textual Amendments

- F78** Words repealed by [Transport Act 1985 \(c. 67, SIF 126\)](#), ss. 57(6), 139(3), **Sch. 3 para. 14(a)**, Sch. 8
- F79** S. 22(3)–(6) repealed by [Transport Act 1985 \(c. 67, SIF 126\)](#), ss. 57(6), 139(3), **Sch. 3 para. 14(b)**, Sch. 8

23 Consents of, or directions by, Minister under Part II.

- (1) Section 28 of the Act of 1962 (which contains general provisions with respect to Ministerial consents under that Act) shall apply to a consent of the Minister under any provision of this Part of this Act to an action of the Executive for a [^{F80}passenger transport] area as it applies to a consent under any of the provisions mentioned in the said section 28 to an action of any of the Boards and, where that area is in Scotland or Wales, as if any reference therein to the Minister of Transport included a reference to the Secretary of State.
- (2) It shall be the duty of any person to whom the Minister [^{F81}or an Authority for a [^{F80}passenger transport] area] gives directions under this Part of this Act to give effect to those directions.
- (3) Any direction given by the Minister [^{F81}or an Authority for a [^{F80}passenger transport] area] under this Part of this Act shall be in writing.

Textual Amendments

- F80** Words “passenger transport” substituted (E.W.S.) for “designated” by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 57(6), **Sch. 3 para. 2(a)**
- F81** Words inserted by (E.W.)(S.) [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), s. 202(2), **Sch. 24 para. 7** and [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), **Sch. 18 para. 12**

VALID FROM 01/04/1994

[^{F82}23A Interpretation of certain provisions of this Part relating to railways.

- (1) For the purposes of sections 10, 15 and 20 of this Act—
- (a) “light maintenance depot”, “locomotive”, “network”, “railway passenger services”, “rolling stock” and “station” have the meaning given in section 83(1) of the Railways Act 1993; and
 - (b) “operator” has the meaning given in section 6(2) of that Act.
- (2) For the purposes of sections 10(1)(vi), 15(1)(d) and 20(2)(b), (4) and (6) of this Act “wholly-owned subsidiary” has the meaning given by section 736 of the ^{M8}Companies Act 1985.]

Textual Amendments

- F82** S. 23A inserted (1.4.1994) by [1993 c. 43, s. 36\(3\)](#); S.I. 1994/571, **art. 5**

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Marginal Citations

M8 1985 c. 6.

Status:

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Changes to legislation:

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