



# Transport Act 1985

## 1985 CHAPTER 67

### PART II

#### REGULATION OF ROAD PASSENGER TRANSPORT IN LONDON

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

- C1** Pt. II (ss. 34–46) modified by S.I. 1984/748, **regs. 5(2), 6(2)** (as amended by S.I. 1987/1755, **reg. 2(2)(a)**)  
Pt. II modified during the transitional period (beginning with 3rd July 2000 and ending with the last day on which a London local service licence granted under the 1985 Act ceases to be in force) and cease to have effect immediately after the end of that transitional period by virtue of S.I. 2000/1462, **art. 3**

#### *London local service licences*

### **34 London local services.**

- (1) In this Act “London local service” means (subject to subsection (3) below) a local service with one or more stopping places in London.
- (2) In this Part of this Act—
  - (a) “bus service” means a local service other than an excursion or tour; and
  - (b) “London bus service” means a London local service other than an excursion or tour.
- (3) Where a local service is or is to be provided both inside and outside London, any part of the service which is or is to be provided outside London shall be treated as a separate service for the purposes of this Act if there is any stopping place for that part of the service outside London.

*Status: Point in time view as at 17/08/1996.*

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

**C2** [S. 34\(2\)](#)

**35 London local service licences.**

- (1) Subject to subsection (2) below and to section 36 of this Act, a London local service shall not be provided except under a London local service licence granted in accordance with the following provisions of this Part of this Act.
- (2) A London local service licence is not required for the provision by any person under an agreement with the Railways Board <sup>F1</sup>, or the Director of Passenger Rail Franchising, of any service secured by the Board or, as the case may be, the Director of Passenger Rail Franchising under section 4A of the 1962 Act (provision of road passenger transport services.)]
- (3) The traffic commissioner for the Metropolitan Traffic Area (referred to below in this Part of this Act as the metropolitan traffic commissioner) shall be responsible for granting London local service licences.
- (4) Subject to subsection (5) below and to section 39(4) of this Act, a London local service licence shall be of no effect at any time at which the holder does not also hold—
  - (a) a PSV operator’s licence granted by the metropolitan traffic commissioner or by the traffic commissioner for any other traffic area <sup>F2</sup>. . . ; or
  - (b) a permit under section 22 of this Act.
- (5) Subsection (4) above does not apply to a London local service licence held by a local education authority.
- (6) Subject to section 68(3) of the 1981 Act (as applied by section 127(4) of this Act), if a London local service is provided in contravention of subsection (1) above, the operator of the service shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**Textual Amendments**

**F1** Words in [s. 35\(2\)](#) substituted (14.7.1994) by [S.I. 1994/1649, art. 2, Sch. para. 2\(b\)](#)

**F2** Words in [s. 35\(4\)\(a\)](#) repealed (8.11.1995) by [1995 c. 44, s. 1 Sch. 1 Pt. V Group 2](#)

**36 London bus services under control of London Regional Transport.**

- (1) A London local service licence is not required for the provision of a London bus service—
  - (a) by London Regional Transport or any subsidiary of theirs; or
  - (b) by any other person in pursuance of any agreement entered into by London Regional Transport by virtue of [<sup>F3</sup>section 3(2) or (2A)(a)]of the <sup>M1</sup>London Regional Transport Act 1984 (referred to below in this section as the 1984 Act).
- (2) Where—
  - (a) London Regional Transport or any subsidiary of theirs propose to provide a new bus service which is to be operated wholly or in part as a London bus

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service or to vary a bus service currently provided by them which is being so operated; or

- (b) London Regional Transport propose to enter into an agreement by virtue of [F3section 3(2) or (2A)(a)]of the 1984 Act for the provision of such a new bus service by any other person or to agree to a variation in any bus service currently provided in pursuance of any such agreement which is being so operated;

then, before deciding on, or on the provisions to be contained in any such agreement with respect to, or on any variation affecting, any relevant aspects of that service London Regional Transport shall, so far as the service is or is to be provided in London, consult with the commissioner or commissioners of police concerned, with the local authorities affected, with the Passengers' Committee and with any other person they think fit.

- (3) In subsection (2) above the reference to relevant aspects of the service is a reference to the route of the service, a terminal point, a point at which passengers may or may not be taken up or set down, or a place at which, or street by the use of which, vehicles used for the service may turn at a terminal point.

- (4) Where—

- (a) London Regional Transport or any subsidiary of theirs propose to discontinue a bus service currently provided by them which is being operated wholly or in part as a London bus service; or
- (b) London Regional Transport propose not to renew any agreement entered into by them by virtue of [F3section 3(2) or (2A)(a)] of the 1984 Act for the provision by any other person of any bus service which is being so operated, or to agree to the discontinuance of any such bus service currently provided in pursuance of any such agreement;

then, before any decision is taken to that effect, London Regional Transport shall, so far as the service is provided in London, consult with the local authorities affected, with the Passengers' Committee and with any other person they think fit.

- (5) Where an agreement entered into by London Regional Transport by virtue of [F3section 3(2) or (2A)(a)] of the 1984 Act for the provision of a bus service relates to such a service part only of which is operated as a London bus service, any provision contained in that agreement with respect to the carriage of passengers other than those who are both taken up and set down in London shall be of no effect if or so far as it is inconsistent with any condition for the time being attached under section 8 of this Act to—

- (a) a PSV operator's licence; or
- (b) a permit under section 22 of this Act;

held by the operator of the service.

- (6) For the purposes of this section the local authorities affected by any proposal with respect to a bus service are any of the following councils, that is to say, the councils of the London boroughs and the Common Council, in whose area there is situated—

- (a) in the case of a proposal to which subsection (2) above applies, any part of the route in question or (as the case may be) the point, place or street in question; or
- (b) in the case of a proposal to which subsection (4) above applies, any part of the route of the service.

- (7) In this section—

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- (a) references to a new bus service are references to a bus service which has not been provided continuously since before the date on which this section comes into force (disregarding, in the case of a bus service operated during certain periods of the year only, any period other than one during which the service is due to be operated);
- (b) “the Passengers’ Committee” means the London Regional Passengers’ Committee established under section 40 of the 1984 Act;
- (c) “subsidiary” has the same meaning as in that Act;

and section 6(5) of and paragraph 11(4) of Schedule 5 to that Act shall apply to references in this section to an agreement entered into by London Regional Transport by virtue of [F3section 3(2) or (2A)(a)]of that Act as they apply to such references in that Act.

#### Textual Amendments

**F3** Words in s. 36(1)(b)(2)(b)(4)(b)(5)(7)(c) substituted (E.W.) (17.8.1996) by 1996 c. 21, s. 4(2)(c)

#### Marginal Citations

**M1** 1984 c. 32.

### 37 Grant of licences.

- (1) An application for a London local service licence shall be made in such a form as the metropolitan traffic commissioner may require, and an applicant shall give the commissioner such information as he may reasonably require for disposing of the application.
- (2) Where an application is made for the grant of a London local service licence, the commissioner—
  - (a) shall grant the licence unless he is satisfied that to do so would be against the interests of the public; and
  - (b) if he grants the licence, shall do so in accordance with the application except to the extent that he is satisfied that to do so would be against the interests of the public.
- (3) In considering under subsection (2) above whether the grant of a licence would be against the interests of the public, or the extent to which the grant of a licence in accordance with the application would be against those interests, the commissioner shall in particular have regard to—
  - (a) the transport needs for the time being of London as a whole and of particular communities within London;
  - (b) any transport policies or plans which have been made and drawn to his attention by the council of a London borough or by the Common Council; and
  - (c) any objections or other representations made to the commissioner in the prescribed manner which in his opinion are relevant.
- (4) The metropolitan traffic commissioner, on granting a London local service licence, shall send notice of the grant, including particulars of the services to be provided under the licence, to the commissioner or commissioners of police concerned and to each of the local authorities affected.

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### **38 Conditions attached to licences.**

- (1) Subject to subsection (3) below, and to any regulations, the metropolitan traffic commissioner may, on granting a London local service licence, attach to the licence such conditions as he thinks fit having regard to the interests of the public, and in particular to the matters mentioned in section 37(3)(a) to (c) of this Act.
- (2) The conditions that may be attached to a London local service licence by virtue of subsection (1) above include, in particular, such conditions as the commissioner thinks fit for securing—
  - (a) that suitable routes are used in providing any service which may be provided under the licence; and
  - (b) that passengers are not taken up or are not set down except at specified points, or are not taken up or are not set down between specified points;and generally for securing the safety and convenience of the public, including persons who are elderly or disabled.
- (3) No condition as to fares shall be attached under this section to a London local service licence.
- (4) The metropolitan traffic commissioner may at any time while a London local service licence is in force vary the licence by—
  - (a) altering, in such manner as he thinks fit having regard to the interests of the public, any condition attached to the licence; or
  - (b) removing any condition attached to the licence, if he thinks fit having regard to those interests; or
  - (c) attaching to the licence any such condition or additional condition as he thinks fit having regard to those interests.
- (5) Where the holder of such a licence makes an application to the commissioner requesting him to exercise his powers under subsection (4) above, the commissioner shall exercise those powers in accordance with the application except to the extent that he is satisfied that to do so would be against the interests of the public.
- (6) Compliance with any condition attached to a London local service licence under this section may be temporarily dispensed with by the commissioner if he is satisfied—
  - (a) that compliance with the condition would be unduly onerous by reason of circumstances not foreseen when the condition was attached or, if the condition has been altered, when it was last altered; and
  - (b) that such a dispensation would not be against the interests of the public.
- (7) Subject to section 68(3) of the 1981 Act (as applied by section 127(4) of this Act), if a condition attached under this section to a London local service licence is contravened, the holder of the licence shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **39 Grant of licences for certain excursions or tours.**

- (1) This section applies where, in the case of any application for a London local service licence, the metropolitan traffic commissioner is satisfied that the service which the applicant proposes to provide under the licence (“the proposed service”) would be an excursion or tour and is also satisfied either—

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- (a) that the proposed service would not compete directly with any authorised London bus service; or
  - (b) that the proposed service would operate only to enable passengers to attend special events.
- (2) In subsection (1)(a) above, “authorised London bus service” means—
- (a) any London bus service for which a London local service licence has been granted; and
  - (b) any London bus service which, by virtue of section 36(1) of this Act, does not require a London local service licence.
- (3) In any case to which this section applies, sections 35, 37 and 38 of this Act shall apply subject to the modifications provided by the following provisions of this section.
- (4) Section 35(4) of this Act shall not prevent a London local service licence granted in pursuance of this section from having effect for the purposes of the provision of a service by means of a vehicle whose operator holds any such licence or permit as is there mentioned<sup>F4</sup> . . .
- (5) The interests of the public falling to be considered under any provision of section 37 or 38 shall be confined to the interests of the public in securing that only places which are suitable for use as such are used as stopping places for the service in question in London.
- The reference above in this subsection to the service in question is a reference to the proposed service or the service provided under any London local service licence granted on an application to which this section applies (as the case may require).
- (6) For the purposes of this section a place is to be regarded as not being suitable for use as a stopping place for any service if the commissioner is satisfied that its use as such would be prejudicial to the safety or convenience of the public.
- (7) Section 37 shall apply with the omission of paragraphs (a) and (b) of subsection (3); and paragraph (c) of that subsection shall apply only in relation to objections or representations made by the commissioner or commissioners of police concerned or by any of the local authorities affected.
- (8) Section 38 shall apply with the omission of subsections (1) and (2), but the metropolitan traffic commissioner in granting a licence on any application to which this section applies may attach to the licence such conditions of a description within section 38(2)(b) as he thinks fit, having regard to any objections or other representations that fall to be considered in relation to that application by virtue of section 37(3)(c), for securing that only places which are suitable for use as such are used as stopping places for the proposed service in London.
- (9) Any condition attached to a licence under subsection (8) above shall be treated for the purposes of section 38(6) and (7) as if it had been attached under that section.
- (10) Every London local service licence granted in pursuance of this section shall include a statement that it is so granted.

#### Textual Amendments

**F4** Words in s. 39(4) repealed (8.11.1995) by 1995 c. 44, s. 1, Sch. 1 Pt. V Group 2

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#### **40 Revocation and suspension of licences.**

- (1) Subject to subsection (2) below, a London local service licence may be revoked or suspended by the metropolitan traffic commissioner on the ground that there has been a contravention of any condition attached to it.
- (2) The commissioner shall not revoke or suspend a London local service licence unless, owing to the frequency of the breach of conditions, or to the breach having been committed intentionally, or to the danger to the public involved in the breach, the commissioner is satisfied that the licence should be revoked or suspended.
- (3) On revoking or suspending a London local service licence the metropolitan traffic commissioner shall send notice of the revocation or suspension to every commissioner of police or local authority notified of the grant of the licence in accordance with section 37(4) of this Act.
- (4) A London local service licence suspended under this section shall during the time of suspension be of no effect.

#### **41 Duration of licences.**

- (1) Subject to subsection (2) below, a London local service licence shall, unless previously revoked, continue in force until the end of the period of five years beginning with the date on which it takes effect, unless at the time of the granting of the licence the metropolitan traffic commissioner for special reasons determines that it shall continue in force only for a shorter period, in which case it shall, unless previously revoked, continue in force only until the end of that shorter period.
- (2) If, on the date on which a London local service licence is due to expire, proceedings are pending before the metropolitan traffic commissioner on an application for the grant of a new licence in substitution for it, the existing licence shall continue in force until the application is disposed of, but without prejudice to the exercise in the meantime of the powers conferred by section 40 of this Act.
- (3) Nothing in this section shall prevent—
  - (a) the grant of a London local service licence limited to one or more particular periods or occasions; or
  - (b) the attachment to a London local service licence of a condition that the service shall be so limited.

#### *Supplementary provisions*

#### **42 Appeals to the Secretary of State.**

- (1) A person who has applied for the grant of a London local service licence may appeal to the Secretary of State against any decision of the metropolitan traffic commissioner—
  - (a) to refuse to grant the licence in accordance with the application; or
  - (b) to attach any condition to the licence otherwise than in accordance with the application.
- (2) Where a person who has applied for a new London local service licence in substitution for a licence held by him and in force at the date of his application appeals to the Secretary of State under subsection (1) above against any such decision as is mentioned in paragraph (a) or (b) of that subsection, the existing licence shall continue

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in force until the appeal is disposed of, but without prejudice to the exercise in the meantime of the powers conferred by section 40 of this Act.

- (3) The holder of a London local service licence may appeal to the Secretary of State against any decision of the metropolitan traffic commissioner—
  - (a) to refuse an application by the holder for the variation or removal of any condition attached to the licence;
  - (b) to vary any such condition, or to attach any new condition to the licence, otherwise than on an application by the holder; or
  - (c) to revoke or suspend the licence.
- (4) Where the commissioner makes any such decision with respect to a licence as is mentioned in subsection (3)(b) or (c) above he may, if the holder of the licence so requests, direct that his decision shall not have effect until the expiration of the period within which an appeal against it may be made to the Secretary of State under that subsection and, if such an appeal is made, until the appeal is disposed of.
- (5) If the commissioner refuses to give a direction under subsection (4) above, the holder of the licence may apply to the Secretary of State for such a direction, and the Secretary of State shall give his decision on the application within fourteen days.
- (6) A person who has applied for the grant of a London local service licence, or for the variation or removal of any conditions attached to such a licence, shall, if the metropolitan traffic commissioner fails to come to a decision on the application within a reasonable time, have the same right to appeal to the Secretary of State as if the commissioner had decided to refuse the application.
- (7) A person other than the applicant for, or holder of, a London local service licence may, if he has standing in the matter in accordance with the following provisions of this section, appeal to the Secretary of State against any decision of the metropolitan traffic commissioner with respect to—
  - (a) the grant, revocation or suspension of a London local service licence; or
  - (b) the attachment of any condition to a London local service licence or the variation or removal of any condition attached to such a licence.
- (8) Subject to subsection (9) below, the persons having standing to appeal under subsection (7) above against a decision of the metropolitan traffic commissioner with respect to a London local service licence are—
  - (a) any local authority affected; and
  - (b) any person providing transport facilities along or near the route, or part of the route, of the service which is being or is to be provided under the licence;
 being a local authority or person who has made objections or other representations to the commissioner in the course of the proceedings resulting in that decision.
- (9) Subsection (8)(b) above shall not apply in the case of any decision of the metropolitan traffic commissioner on an application to which section 39 of this Act applies or with respect to a London local service licence granted in pursuance of that section.
- (10) An appeal under this section must be made within the prescribed time and in the prescribed manner; and provision may be made by regulations as to the procedure to be followed in connection with appeals under this section.
- (11) On any appeal under this section the Secretary of State may, if he thinks fit, remit the matter to the metropolitan traffic commissioner for rehearing and determination by



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him; and, if he does so, he may give to the commissioner such directions as he thinks fit with respect to the consideration to be given to any circumstances of the case.

- (12) On the determination of an appeal under this section the Secretary of State may confirm, vary or reverse the decision appealed against, and may give such directions as he thinks fit to the metropolitan traffic commissioner for giving effect to his decision.

#### **43 Further appeals on points of law.**

- (1) An appeal lies to the High Court at the instance of any of the persons mentioned in subsection (2) below on any point of law arising from a decision of the Secretary of State on an appeal from a decision of the metropolitan traffic commissioner.
- (2) The persons who may appeal against any such decision of the Secretary of State are—
- (a) the person who appealed to the Secretary of State;
  - (b) any person who had a right to appeal to the Secretary of State against the relevant decision of the commissioner but did not exercise that right;
  - (c) any person who would have had a right of appeal to the Secretary of State against the relevant decision of the commissioner if aggrieved by that decision and who is aggrieved by the decision of the Secretary of State on the appeal; and
  - (d) the metropolitan traffic commissioner.
- (3) If on an appeal under this section the High Court is of opinion that the decision appealed against was erroneous in point of law, it shall remit the matter to the Secretary of State with the opinion of the court for rehearing and determination by him.
- (4) No appeal to the Court of Appeal may be brought from a decision of the High Court under this section except with the leave of the High Court or the Court of Appeal.

#### **44 Application of provisions of the 1981 Act.**

- (1) The provision of the 1981 Act mentioned in subsection (2) below shall apply in relation to the grant of London local service licences, or to London local service licences granted, under this Part of this Act, as they apply in relation to the grant of PSV operators' licences, or to PSV operators' licences granted, under that Act.
- (2) Those provisions are—
- section 57 (death, bankruptcy, etc., of licence holder);
  - section 58(2) (grant of licences to unincorporated body or to persons jointly); and
  - section 59 (regulations with respect to procedure on applications for licences).
- (3) Section 84 of that Act (which relates to the effect of that Act in relation to general public interests) shall have effect as if the provisions of this Part of this Act were contained in that Act.

#### **45 Interpretation of Part II.**

- (1) In this Part of this Act—
- “commissioner of police” means—
  - (a) in relation to the metropolitan police district, the Commissioner of Police of the Metropolis; and

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(b) in relation to the City of London, the Commissioner of Police for the City of London;

“the Common Council” means the Common Council of the City of London;

“bus service” and “London bus service” have the meanings given by section 34(2) of this Act; and

“metropolitan traffic commissioner” shall be read in accordance with section 35(3) of this Act.

(2) Subject to subsection (3) below, for the purposes of—

(a) section 37(4) of this Act; and

(b) section 42(8)(a) of this Act;

the local authorities affected are any of the following councils, that is to say, the councils of the London boroughs and the Common Council, in whose area the service, or any part of the service, is being or (as the case may be) is to be provided under the licence in question.

(3) For the purposes of—

(a) section 39(7) of this Act; and

(b) section 42(8)(a) of this Act as it applies in a case within subsection (9) of that section;

the local authorities affected are any of the councils mentioned in subsection (2) above in whose area there is situated any stopping place for the proposed service or (as the case may be) for the service which is being provided under the licence in question.

### *Repeal of Part II*

## **46 Power of Secretary of State to repeal Part II.**

(1) The Secretary of State may by order repeal this Part of this Act.

(2) Any order made under this section may contain such supplementary, incidental, consequential and transitional provisions as may appear to the Secretary of State to be necessary or expedient (including provision making such amendments or repeals in any provision of this or any other Act as may appear to the Secretary of State to be required in consequence of the repeal of this Part of this Act).

(3) No order shall be made under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

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