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STATUTORY INSTRUMENTS

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**2002 No. 2090**

**The Service Subsidy Agreements  
(Tendering) (England) Regulations 2002**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Service Subsidy Agreements (Tendering) (England) Regulations 2002 and shall come into force on 2nd of September 2002.

(2) These Regulations extend to England only(1).

**Interpretation**

2. In these Regulations—

“the Act” means the Transport Act 1985;

“authority” means an authority responsible for expenditure on public passenger transport services;

“service subsidy agreement” means an agreement which provides for the payment of service subsidies for the provision of a local service.

**Exclusions from section 89(1) of the Act**

3.—(1) Subject to paragraphs (2), (3) and (4) below, there are excluded from section 89(1) of the Act(2) the following service subsidy agreements—

(a) any agreement which will remain in force for 12 months or more and under which the aggregate amount of the service subsidies payable in any period of 12 months is less than £25,000; and

(b) any agreement which will remain in force for less than 12 months and under which the aggregate amount of the service subsidies payable under the agreement is less than £25,000.

(2) This regulation shall not exclude from section 89(1) of the Act any agreement whose effect is—

(a) to provide for the person operating the service to receive in any period of 12 months from any one authority under service subsidy agreements entered into otherwise than by accepting tenders invited pursuant to section 89 of the Act an aggregate amount of service subsidies exceeding £150,000;

(b) to modify an agreement which is within the scope of paragraph (1) above so that—

(i) in the case of a modified agreement which will remain in force for 12 months or more after the date on which the modification takes effect, the aggregate amount of

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(1) The functions of the Secretary of State under sections 90 and 91 are, so far as exercisable in relation to Scotland, transferred to the Scottish Ministers by section 53(1) of the Scotland Act 1998 (c. 46) and, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2; see the entry in Schedule 1 for the Transport Act 1985 (c. 67).

(2) Section 89(7) and (8) was amended by section 152(2) of the Transport Act 2000.

the service subsidies payable in any period of 12 months is increased to £25,000 or more, or

- (ii) in the case of a modified agreement which will remain in force for less than 12 months after the date on which the modification takes effect, in the period during which the modified agreement remains in force the aggregate amount of the service subsidies payable is increased to £25,000 or more.

(3) For the purposes of paragraphs (1) and (2) above, the aggregate amount of service subsidies payable in any period under a service subsidy agreement shall—

- (a) include any specific amount whose payment is dependent on a contingency; and
- (b) exclude any amount payable in any period of 12 months after the first such period during which the agreement is in force and which becomes payable—
  - (i) as a direct consequence of an increase in an index published by the Government of movements in prices or costs; or
  - (ii) pursuant to any provision of the agreement whereby an increase in the amount of service subsidies payable is not to exceed a figure calculated by reference to such an index.

(4) This regulation shall not exclude from section 89(1) of the Act any service subsidy agreement providing for an increase in the amount of service subsidies payable to be agreed between the parties or to be calculated by any method other than those mentioned in paragraph (3)(b) of this regulation.

#### **Information with respect to tenders**

4.—(1) In any case where an authority enters into a service subsidy agreement by accepting a tender invited in accordance with section 89 of the Act, that authority shall publish in the manner prescribed by these Regulations the information as specified in Part I of Schedule 1 hereto.

(2) In any case where an authority accept none of the tenders invited in accordance with that section, that authority shall publish in the manner prescribed by these Regulations the information as specified in Part II of Schedule 1 hereto.

#### **Manner of publication of information and reasons**

5.—(1) In this regulation, the information which is required to be published pursuant to regulation 4 of these Regulations and the reasons or statements which are required to be published by section 90(3) or section 91(7) of the Act are referred to as “material”.

(2) An authority which is required to publish any material shall do so by—

- (a) making the material available to the general public at times and in places and in a form all of which are convenient to that public; and
- (b) inserting or causing to be inserted a notice of the availability of the material at those times and places in a local newspaper or newspapers circulating in each locality in which the service or services in question will be provided.

#### **Revocation**

6. The Regulations set out in Schedule 2 hereto are hereby revoked so far as they apply to England.

Signed by the authority of the Secretary of State for Transport

6th August 2002

*John Spellar*  
Minister of State,  
Department for Transport