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DRAFT STATUTORY INSTRUMENTS

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**2023 No.**

The Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023

PART 3

Bus Services and Ticketing Arrangements and Schemes

CHAPTER 2

Test for Certain Agreements, Decisions and Practices

**Agreements, decisions and practices to which this Chapter applies**

**18.**—(1) This Chapter applies to a qualifying agreement falling within paragraph (2), unless that agreement (or any of its provisions) constitutes a price-fixing agreement within the meaning given by section 39(9)(1) of the 1998 Act (limited immunity in relation to the Chapter 1 prohibition).

(2) A qualifying agreement falls within this paragraph if—

- (a) it has as its object or effect the prevention, restriction or distortion of competition in the area of the authority, or the combined area of the authorities, but
- (b) the local transport authority, or any of the authorities, have certified that they have considered all the terms and effects (or likely effects) of the agreement and that in their opinion the requirements mentioned in paragraph (3) are satisfied.

(3) The requirements are that the agreement—

- (a) is in the interests of persons using local services within the area of the authority, or the combined area of the authorities, and
- (b) does not impose on the undertakings concerned restrictions that are not indispensable to the attainment of the bus improvement objectives.

(4) For the purposes of paragraph (2) the object or effect of a qualifying agreement may be considered either on its own or together with one or more other qualifying agreements.