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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 4

Bus Services: Local Services Franchises

**Application of TUPE**

**24.**—(1) Paragraph (3) applies to a situation in which—

- (a) at the time when a franchising framework comes into operation, affected local services cease to be provided by a relevant operator in the area to which the relevant franchising framework relates, and
- (b) at the same time, a person begins to provide local services in that area under a franchise agreement<sup>(1)</sup>.

(2) Paragraph (3) also applies to a situation in which—

- (a) affected local services cease to be provided by a relevant operator before the coming into operation of the franchising framework, and
- (b) at the same time as those local services cease to be provided, a person begins to provide local services under an agreement with the local transport authority entered into by reason of the cessation of the local services referred to in sub-paragraph (a).

(3) Any situation to which this paragraph applies is to be treated as a relevant transfer for the purposes of TUPE (whether or not TUPE would otherwise apply).

(4) For the purposes of TUPE, the organised grouping of employees<sup>(2)</sup> that is subject to the relevant transfer consists of those employees of the relevant operator whose employment is principally connected with the provision of the affected local services referred to in paragraph (1) (a) or (2)(a).

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(1) See section 13A of the Transport (Scotland) Act 2001 for the meaning of “franchise agreement”. Section 13A was inserted by the Transport (Scotland) Act 2019, section 38.

(2) See [S.I. 2006/246](#), regulation 2(1) for the meaning of “organised grouping of employees” within TUPE.