



# Transport Act 1968

## 1968 CHAPTER 73

### PART I

#### INTEGRATION OF FREIGHT TRANSPORT SERVICES

1—5. ....<sup>F1</sup>

##### Textual Amendments

**F1** Ss. 1-5 repealed by [Transport Act 1980 \(c. 34, SIF 126\)](#), [Sch. 9 Pt. III](#)

6 .....<sup>F2</sup>

##### Textual Amendments

**F2** S. 6 repealed by [Transport Act 1980 \(c. 34, SIF 126\)](#), [Sch. 9 Pt. II](#)

#### *Redistribution of activities between Freight Corporation and Railways Board or Scottish Group*

<sup>F3</sup>7 .....

##### Textual Amendments

**F3** S. 7 repealed (1.4.1994) by [1993 c. 43, ss. 150\(1\)\(o\), 152\(3\)](#), [Sch.14](#); [S.I. 1994/571](#), [art. 5](#)

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F48 .....

**Textual Amendments**  
F4 S. 8 repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), 152(3), **Sch.14**; S.I. 1994/571, **art. 5**

**PART II**

[F5]INTEGRATED TRANSPORT AREAS AND PASSENGER TRANSPORT AREAS]

**Textual Amendments**  
F5 Pt. 2 heading substituted (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 11(a)**; S.I. 2009/107, art. 2(1), **Sch. 1 Pt. 1**

**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**  
C4 Pt. 2: functions made exercisable (2.11.2018) by The Newcastle Upon Tyne, North Tyneside and Northumberland Combined Authority (Establishment and Functions) Order 2018 (S.I. 2018/1133), arts. 1, **9** (with art. 28)

*Designation of [F6]Integrated Transport Areas or] Passenger Transport Areas and establishment and functions of Authorities and Executives*

**Textual Amendments**  
F6 Words in s. 9 cross-heading inserted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 11(b)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1

9 [F7]Passenger Transport Areas, Authorities and Executives.][F7]Areas, Authorities and Executives.] **E+W+N.I.**

[F8](1) [F9]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 [F10]shall be designated as follows], that is to say—
  - (i) in England and Wales, [F11]each of the metropolitan counties [F12]except [F13]a metropolitan county which is or is included in a combined authority area][F14]or a combined county authority area] shall be an integrated transport area]; F15...

F16(ia) .....

- (ii) in Scotland, such area to be known as the Strathclyde Passenger Transport Area as the Minister may designate for the purposes of

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- section 40 of the Local Government etc. (Scotland) Act 1994 <sup>F17</sup>shall be a passenger transport area];
- <sup>F18</sup>(aa) [ any reference to a “combined authority” is to an authority established under section 103(1) of the Local Democracy, Economic Development and Construction Act 2009 for an area which is or includes a metropolitan county;
- (ab) any reference to a “combined authority area” is to an area for which a combined authority is established;]
- <sup>F19</sup>(ac) [ any reference to a “combined county authority” is to an authority established under section 9(1) of the Levelling-up and Regeneration Act 2023 for an area which is or includes a metropolitan county;
- (ad) any reference to a “combined county authority area” is to an area for which a combined county authority is established;]
- (b) <sup>F20</sup>any reference to “the Authority” is a reference to—
- (i) in relation to an integrated transport area in England and Wales, the Integrated Transport Authority established for the metropolitan county which is coterminous with or includes that integrated transport area; <sup>F21</sup>...
- <sup>F22</sup>(ia) in relation to a combined authority area <sup>F23</sup>..., the combined authority;]
- [ in relation to a combined county authority area, the combined county <sup>F24</sup>(iaa) authority;]
- <sup>F25</sup>(ib) .....
- [ in relation to the Strathclyde Passenger Transport Area, the <sup>F26</sup>(ii) Strathclyde Passenger Transport Authority]
- (c) <sup>F27</sup>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 <sup>F27</sup>any reference to “the Executive” is a reference to—
- [ in England and Wales]<sup>F29</sup>(except as mentioned in <sup>F30</sup>sub-<sup>F28</sup>(i) paragraph (ia))<sup>F30</sup>sub-paragraphs (ia) to (ie))] 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; <sup>F31</sup>and
- [ in relation to the area of the West Yorkshire Combined Authority, that <sup>F32</sup>(ia) Authority;]
- [ in relation to the area of the West Midlands Combined Authority, that <sup>F33</sup>(iaa) Authority;]
- [ in relation to the area of the Greater Manchester Combined Authority, <sup>F34</sup>(ib) the Greater Manchester Passenger Transport Executive;
- (ic) in relation to the area of the Greater Merseyside Combined Authority, the Merseyside Passenger Transport Executive;
- (id) in relation to the area of the Barnsley, Doncaster, Rotherham and Sheffield Combined Authority, the South Yorkshire Passenger Transport Executive;
- <sup>F35</sup>(ie) in relation to the area of the North East Mayoral Combined Authority, the Tyne and Wear Passenger Transport Executive;]]
- (ii) in Scotland, the Strathclyde Passenger Transport Executive]
- (2) The Executive for <sup>F36</sup>an integrated transport area <sup>F37</sup>, <sup>F38</sup>a combined authority area]]<sup>F39</sup>, a combined county authority area] or] a passenger transport area consists of—

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- (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 [F40: integrated transport area [F37, [F41: a combined authority area]] [F42, a combined county authority area] or] 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 [F43: the Passenger Transport Authority] [F43: the Authority] for the area and, where the area is in England and Wales, with the councils of the districts comprised in the [F44: county which is coterminous with or includes that] area.]
- (5) Each of the councils of the districts comprised in [F45: a county which is coterminous with or includes] [F46: a passenger transport area] [F46: an integrated transport area] [F47 [F48: or [F49: a combined authority area] [F48: a combined authority area or a combined county authority area]]] 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.

<sup>F50</sup>(5A) .....

- (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 <sup>F51</sup> . . . thereto other than [F52: section 20(6) and (7)] shall be construed as a reference to the Secretary of State.

[F53(6A) This section applies in relation to [F54: each of the authorities within subsection (6B)] as if—

- (a) subsections (2) to (4) were omitted; and
- (b) in subsection (5), the words “the Executive and any subsidiary of the Executive”. were omitted.]

[F55(6B) The authorities referred to in subsection (6A) are—

- (a) the West Yorkshire Combined Authority;
- (b) the West Midlands Combined Authority.]

<sup>F56</sup>(6C) .....

<sup>F57</sup>(6D) .....

**Extent Information**

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

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## Textual Amendments

- F7** S. 9 heading substituted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 2(9)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F8** S. 9(1)–(4) substituted by Transport Act 1985 (c.67, SIF 126) s. 57(1)(a)
- F9** Words in s. 9(1) repealed (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), ss. 98(4), 134(4), **Sch. 7 Pt. 4**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F10** Words in s. 9(1)(a) inserted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 2(2)(a)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F11** Words in s. 9(1)(a)(i) substituted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 2(2)(b)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F12** Words in s. 9(1)(a)(i) inserted (E.W.) (1.4.2011) by The Greater Manchester Combined Authority Order 2011 (S.I. 2011/908), art. 1, **Sch. 2 para. 2(a)**
- F13** Words in s. 9(1)(a)(i) substituted (1.4.2014) by The Combined Authorities (Consequential Amendments) Order 2014 (S.I. 2014/866), art. 1, **Sch. para. 2(2)(a)**
- F14** Words in s. 9(1)(a)(i) inserted (26.12.2023) (E.W.) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 8(2)(a)** (with s. 247)
- F15** Word in s. 9(1)(a)(i) omitted (E.W.) (1.4.2011) by virtue of The Greater Manchester Combined Authority Order 2011 (S.I. 2011/908), art. 1, **Sch. 2 para. 2(b)**
- F16** S. 9(1)(a)(ia) omitted (1.4.2014) by virtue of The Combined Authorities (Consequential Amendments) Order 2014 (S.I. 2014/866), art. 1, **Sch. para. 2(2)(b)**
- F17** Words in s. 9(1)(a) become words in s. 9(1)(a)(ii) (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 2(2)(c)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F18** S. 9(1)(aa)(ab) inserted (1.4.2014) by The Combined Authorities (Consequential Amendments) Order 2014 (S.I. 2014/866), art. 1, **Sch. para. 2(3)**
- F19** S. 9(1)(ac)(ad) inserted (E.W.) (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 8(2)(b)** (with s. 247)
- F20** Words in s. 9(1)(b) substituted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 2(3)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F21** Word in s. 9(1)(b)(i) omitted (E.W.) (1.4.2011) by virtue of The Greater Manchester Combined Authority Order 2011 (S.I. 2011/908), art. 1, **Sch. 2 para. 3(a)**
- F22** S. 9(1)(b)(ia) substituted (1.4.2014) by The Combined Authorities (Consequential Amendments) Order 2014 (S.I. 2014/866), art. 1, **Sch. para. 2(4)**
- F23** Words in s. 9(1)(b)(ia) omitted (E.W.) (7.5.2024) by virtue of The North East Mayoral Combined Authority (Establishment and Functions) Order 2024 (S.I. 2024/402), art. 1(3), **Sch. 2 para. 1(a)** (with art. 9)
- F24** S. 9(1)(b)(iaa) inserted (E.W.) (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 8(2)(c)** (with s. 247)
- F25** S. 9(1)(b)(ib) omitted (E.W.) (7.5.2024) by virtue of The North East Mayoral Combined Authority (Establishment and Functions) Order 2024 (S.I. 2024/402), art. 1(3), **Sch. 2 para. 1(b)** (with art. 9)
- F26** S. 9(1)(b)(ii) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(2)(b)**; S.I. 1996/323, art. 4(1)(b)(c)
- F27** Words in s. 9(1)(c) substituted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 2(4)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F28** Words inserted and words in s. 9(1)(c) renumbered as s. 9(1)(c)(i) (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(2)(c)(i)**; S.I. 1996/323, art. 4(1)(b)(c)
- F29** Words in s. 9(1)(c)(i) inserted (E.W.) (1.4.2014) by The West Yorkshire Combined Authority Order 2014 (S.I. 2014/864), art. 1(2), **Sch. 2 para. 2(2)(a)**
- F30** Words in s. 9(1)(c)(i) substituted (26.3.2015 for specified purposes) by Deregulation Act 2015 (c. 20), s. 115(2)(e), **Sch. 8 para. 9(2)(a)**
- F31** S. 9(1)(c)(ii) and preceding word inserted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(2)(c)(ii)**; S.I. 1996/323, art. 4(1)(b)(c)

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- F32** S. 9(1)(c)(ia) inserted (E.W.) (1.4.2014) by The West Yorkshire Combined Authority Order 2014 (S.I. 2014/864), art. 1(2), **Sch. 2 para. 2(2)(b)**
- F33** S. 9(1)(c)(iaa) inserted (E.W.) (17.6.2016) by The West Midlands Combined Authority Order 2016 (S.I. 2016/653), art. 1(2), **Sch. 2 para. 2(2)**
- F34** S. 9(1)(c)(ib)-(ie) inserted (26.3.2015 for specified purposes) by Deregulation Act 2015 (c. 20), s. 115(2)(e), **Sch. 8 para. 9(2)(b)**
- F35** S. 9(1)(c)(ie) substituted (7.5.2024) by The North East Mayoral Combined Authority (Establishment and Functions) Order 2024 (S.I. 2024/402), art. 1(3), **Sch. 2 para. 1(c)** (with art. 9)
- F36** Words in s. 9(2) inserted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 2(5)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F37** Words in s. 9(2)(3) inserted (E.W.) (1.4.2011) by The Greater Manchester Combined Authority Order 2011 (S.I. 2011/908), art. 1, **Sch. 2 para. 4**
- F38** Words in s. 9(2) substituted (1.4.2014) by The Combined Authorities (Consequential Amendments) Order 2014 (S.I. 2014/866), art. 1, **Sch. para. 2(5)**
- F39** Words in s. 9(2) inserted (E.W.) (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 8(3)** (with s. 247)
- F40** Words in s. 9(3) inserted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 2(6)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F41** Words in s. 9(3) substituted (1.4.2014) by The Combined Authorities (Consequential Amendments) Order 2014 (S.I. 2014/866), art. 1, **Sch. para. 2(5)**
- F42** Words in s. 9(3) inserted (E.W.) (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 8(4)** (with s. 247)
- F43** Words in s. 9(4) substituted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 2(7)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F44** Words inserted by Transport Act 1985 (c. 67, SIF 126), s. 58(2)(b)
- F45** Words inserted (E.W.) by Transport Act 1985 (c. 67, SIF 126), s. 58(2)(c)
- F46** Words in s. 9(5) substituted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 2(8)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F47** Words in s. 9(5) inserted (E.W.) (1.4.2011) by The Greater Manchester Combined Authority Order 2011 (S.I. 2011/908), art. 1, **Sch. 2 para. 5**
- F48** Words in s. 9(5) substituted (E.W.) (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 8(5)** (with s. 247)
- F49** Words in s. 9(5) substituted (1.4.2014) by The Combined Authorities (Consequential Amendments) Order 2014 (S.I. 2014/866), art. 1, **Sch. para. 2(5)**
- F50** S. 9(5A) omitted (1.4.2014) by virtue of The Combined Authorities (Consequential Amendments) Order 2014 (S.I. 2014/866), art. 1, **Sch. para. 2(6)**
- F51** Words repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 3, **Sch. 8**
- F52** Words substituted by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 3, **Sch. 8**
- F53** S. 9(6A) inserted (E.W.) (1.4.2014) by The West Yorkshire Combined Authority Order 2014 (S.I. 2014/864), art. 1(2), **Sch. 2 para. 2(3)**
- F54** Words in s. 9(6A) substituted (E.W.) (17.6.2016) by The West Midlands Combined Authority Order 2016 (S.I. 2016/653), art. 1(2), **Sch. 2 para. 2(3)**
- F55** S. 9(6B) inserted (E.W.) (17.6.2016) by The West Midlands Combined Authority Order 2016 (S.I. 2016/653), art. 1(2), **Sch. 2 para. 2(4)**
- F56** S. 9(6C) omitted (E.W.) (7.5.2024) by virtue of The North East Mayoral Combined Authority (Establishment and Functions) Order 2024 (S.I. 2024/402), art. 1(3), **Sch. 2 para. 1(d)** (with art. 9)
- F57** S. 9(6D) omitted (E.W.) (7.5.2024) by virtue of The North East Mayoral Combined Authority (Establishment and Functions) Order 2024 (S.I. 2024/402), art. 1(3), **Sch. 2 para. 1(d)** (with art. 9)

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

- C5** S. 9(5) modified (E.W.) (1.4.2018) by The Sub-national Transport Body (Transport for the North) Regulations 2018 (S.I. 2018/103), regs. 1(2), **19(1)**

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## 9 Passenger Transport Areas, Authorities and Executives. **S**

[<sup>F936</sup>(1) [<sup>F937</sup>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  
[ in Scotland, such area to be known as the Strathclyde Passenger
  - <sup>F938</sup>(ii) Transport Area as the Minister may designate for the purposes of section 40 of the Local Government etc. (Scotland) Act 1994;]

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—

- (i) in relation to a passenger transport area in England and Wales, the metropolitan county [<sup>F939</sup>passenger transport authority for the county which is coterminous with or includes that passenger transport area]; and

[ in relation to the Strathclyde Passenger Transport Area, the

- <sup>F26</sup>(ii) Strathclyde Passenger Transport Authority]

- (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

- [ in England and Wales] the body which immediately before the
- <sup>F28</sup>(i) 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 transport area]

[<sup>F31</sup>and

- (ii) in Scotland, the Strathclyde Passenger Transport Executive]

- (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 [<sup>F940</sup>county which is coterminous with or includes that] area.

- (5) Each of the councils [<sup>F941</sup>constituted under section 2 of the Local Government etc.(Scotland) Act 1994 whose area (or any part of whose area) falls within the Strathclyde Passenger Transport Area] and each of the following bodies namely, the

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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. . . <sup>F942</sup>thereto other than [<sup>F943</sup>section 20(6) and (7)] shall be construed as a reference to the Secretary of State.

(7) . . . . . <sup>F944</sup>

**Extent Information**

**E20** This version of this provision extends to Scotland only; a separate version has been created for England, Wales and Northern Ireland only.

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**Textual Amendments**

**F26** S. 9(1)(b)(ii) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(2)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**

**F28** Words inserted and words in s. 9(1)(c) renumbered as s. 9(1)(c)(i) (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(2)(c)(i)**; S.I. 1996/323, **art. 4(1)(b)(c)**

**F31** S. 9(1)(c)(ii) and preceding word inserted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(2)(c)(ii)**; S.I. 1996/323, **art. 4(1)(b)(c)**

**F936** S. 9(1)–(4) substituted by **Transport Act 1985 (c.67, SIF 126) s. 57(1)(a)**

**F937** Words inserted by **Transport Act 1985 (c. 67, SIF 126), s. 58(2)(a)(i)**

**F938** S. 9(1)(a)(ii) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(2)(a)**; S.I. 1996/323, **art. 4(1)(b)(c)**

**F939** Words substituted by **Transport Act 1985 (c. 67, SIF 126), s. 58(2)(a)(ii)**

**F940** Words inserted by **Transport Act 1985 (c. 67, SIF 126), s. 58(2)(b)**

**F941** Words in s. 9(5) substituted (S.) (1.4.1996) by S.I. 1996/739, art. 7(1), **Sch. 1 Pt. I para. 2**

**F942** Words repealed by **Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 3, Sch. 8**

**F943** Words substituted by **Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 3, Sch. 8**

**F944** 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**

[<sup>F58</sup>9A [<sup>F59</sup>**General functions of Authorities and Executives.**] **E+W**

<sup>F60</sup>(1) . . . . .

<sup>F60</sup>(2) . . . . .

[ It shall be the duty of the Executive for each [<sup>F62</sup>integrated transport area][<sup>F63</sup>, <sup>F61</sup>(3) combined authority area][<sup>F64</sup>, combined county authority area] or passenger transport area in England to secure the provision of such public passenger transport services as the Authority for the area consider it appropriate for the Executive to secure for meeting any public transport requirements within the area which in the Authority’s view would not be met apart from any action taken by the Executive for that purpose.

(3A) The Authority shall seek and have regard to the advice of the Executive for their area in determining which services it would be appropriate for the Executive to secure under subsection (3) of this section.]



*Status: Point in time view as at 07/05/2024.*

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- (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 [<sup>F65</sup>, or would not be provided to a particular standard,] without subsidy; and
  - (b) is subject to sections 89 to 92 of the Transport Act 1985 (tendering for local services, etc.).

[ The reference in subsection (4)(a) of this section to the standard to which a service <sup>F66</sup>(4A) is provided includes—

- (a) the frequency or timing of the service;
- (b) the days, or times of day, when the service is provided;
- (c) the vehicles used to provide the service.]

- (5) Where it appears to the Authority for any [<sup>F62</sup>integrated transport area][<sup>F67</sup>, combined authority area][<sup>F68</sup>, combined county authority area] or 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 [<sup>F62</sup>integrated transport area][<sup>F69</sup>, combined authority area][<sup>F70</sup>, combined county authority area] or passenger transport area, in formulating any such policies; and
- (b) of the Executive for any [<sup>F62</sup>integrated transport area][<sup>F71</sup>, combined authority area][<sup>F72</sup>, combined county authority area] or passenger transport area, in carrying out any such policies;

[<sup>F73</sup>to have regard to a combination of economy, efficiency and effectiveness.]

- (7) It shall be the duty both of the Authority and of the Executive for any [<sup>F62</sup>integrated transport area][<sup>F74</sup>, combined authority area][<sup>F75</sup>, combined county authority area] or 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 <sup>F76</sup>....

- (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;

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- (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 [F62integrated transport area][F77, combined authority area][F78, combined county authority area] or 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 interconnected 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.
- [ This section applies to [F80each of the authorities within subsection (13)] as if—
- <sup>F79</sup>(12) (a) the duty under subsection (3) were a duty for the Authority to secure the provision of such public passenger transport services as it considers appropriate for meeting any public transport requirements within its area which in the view of the Authority would not be met apart from any action taken by it for that purpose;
- (b) subsection (3A) were omitted;
  - (c) in subsection (5)—
    - (i) the words “for the Executive of that area” were omitted;
    - (ii) for the words “by the Executive for that area, and the Executive” there were substituted “and”;
  - (d) in subsections (6) and (7), the references to the Executive were omitted.]

[ The authorities referred to in subsection (12) are—

<sup>F81</sup>(13) (a) the West Yorkshire Combined Authority;

    - (b) the West Midlands Combined Authority.]]

#### **Extent Information**

**E2** This version of this provision extends to England and Wales only; a separate version has been created for Scotland and Northern Ireland only

*Status: Point in time view as at 07/05/2024.*

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## Textual Amendments

- F58** Ss. 9A, 9B inserted (with savings for s. 9A(8) by Transport Act 1985 (c. 67, SIF 126), s. 57(2)(5))
- F59** S. 9A heading substituted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 3(3)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F60** S. 9A(1)(2) repealed (1.2.2001 (E.) and omitted 1.8.2001 (W.) and repealed 14.8.2002 (W.)) by 2000 c. 38, ss. 161, 274, Sch. 11 para. 3(2), **Sch. 31 Pt. II**; S.I. 2001/57, art. 3, **Sch. 3 Pt. I** (subject to savings in Sch. 3 Pt. II); S.I. 2001/2788, art. 2, **Sch. 1 para. 11**; S.I. 2002/2024, art. 2
- F61** S. 9A(3)(3A) substituted (1.2.2001 (E.) and 1.8.2001 (W.)) for s. 9A(3) by 2000 c. 38, ss. 161, 275(1), **Sch. 11 para. 3(3)**; S.I. 2001/57, art. 3, **Sch. 3 Pt. I** (subject to savings in Sch. 3 Pt. II); S.I. 2001/2788, art. 2, **Sch. 1 para. 11**
- F62** Words in s. 9A inserted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 3(2)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F63** Words in s. 9A(3) inserted (1.4.2014) by The Combined Authorities (Consequential Amendments) Order 2014 (S.I. 2014/866), art. 1, **Sch. para. 3**
- F64** Words in s. 9A(3) inserted (E.W.) (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 9** (with s. 247)
- F65** Words in s. 9A(4)(a) inserted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), ss. 67(2), 134(4); S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F66** S. 9A(4A) inserted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), ss. 67(3), 134(4); S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F67** Words in s. 9A(5) inserted (1.4.2014) by The Combined Authorities (Consequential Amendments) Order 2014 (S.I. 2014/866), art. 1, **Sch. para. 3**
- F68** Words in s. 9A(5) inserted (E.W.) (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 9** (with s. 247)
- F69** Words in s. 9A(6)(a) inserted (1.4.2014) by The Combined Authorities (Consequential Amendments) Order 2014 (S.I. 2014/866), art. 1, **Sch. para. 3**
- F70** Words in s. 9A(6)(a) inserted (E.W.) (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 9** (with s. 247)
- F71** Words in s. 9A(6)(b) inserted (1.4.2014) by The Combined Authorities (Consequential Amendments) Order 2014 (S.I. 2014/866), art. 1, **Sch. para. 3**
- F72** Words in s. 9A(6)(b) inserted (E.W.) (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 9** (with s. 247)
- F73** Words in s. 9A(6) substituted (1.2.2001 for E and 1.8.2001 for W.) by 2000 c. 38, ss. 161, 275(1), **Sch. 11 para. 3(4)**; S.I. 2001/57, art. 3, **Sch. 3 Pt. I** (subject to savings in Sch. 3 Pt. II); S.I. 2001/2788, art. 2, **Sch. 1 para. 11**
- F74** Words in s. 9A(7) inserted (1.4.2014) by The Combined Authorities (Consequential Amendments) Order 2014 (S.I. 2014/866), art. 1, **Sch. para. 3**
- F75** Words in s. 9A(7) inserted (E.W.) (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 9** (with s. 247)
- F76** Words in s. 9A(7) repealed (E.W.) (9.2.2009 for E., 1.4.2009 for W.) by Local Transport Act 2008 (c. 26), ss. 10(8), 134(4), **Sch. 7 Pt. 1**; S.I. 2009/107, art. 2(2), Sch. 2 Pt. 1 (with Sch. 2 para. 2); S.I. 2009/579, art. 2(b) (with Sch. para. 1)
- F77** Words in s. 9A(8) inserted (1.4.2014) by The Combined Authorities (Consequential Amendments) Order 2014 (S.I. 2014/866), art. 1, **Sch. para. 3**
- F78** Words in s. 9A(8) inserted (E.W.) (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 9** (with s. 247)
- F79** S. 9A(12) inserted (1.4.2014) by The West Yorkshire Combined Authority Order 2014 (S.I. 2014/864), art. 1(2), **Sch. 2 para. 3**
- F80** Words in s. 9A(12) substituted (E.W.) (17.6.2016) by The West Midlands Combined Authority Order 2016 (S.I. 2016/653), art. 1(2), **Sch. 2 para. 3(2)**
- F81** S. 9A(13) inserted (E.W.) (17.6.2016) by The West Midlands Combined Authority Order 2016 (S.I. 2016/653), art. 1(2), **Sch. 2 para. 3(3)**

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

- C6 S. 9A excluded (24.12.1993) by 1993 c. 43, ss. 144(1), 150(1)(j); S.I. 1993/3237, art. 2(1)  
 C7 S. 9A(8) excluded (18.2.1993) by 1989 c. xix, s. 28(7) (as inserted by 1993 c. ii, s. 14)

**[<sup>F945</sup>9A General functions of Passenger Transport Authorities and Executives. S+N.I.]**

- (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 [<sup>F946</sup>sections 89 to][<sup>F946</sup>section] 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
  - (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.

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- (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 [<sup>F947</sup>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 interconnected 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.]

#### Extent Information

**E21** This version of this provision extends to Scotland and Northern Ireland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F945** Ss. 9A, 9B inserted (with savings for s. 9A(8) by [Transport Act 1985 \(c. 67, SIF 126\)](#), [s. 57\(2\)\(5\)](#))

**F946** Word in s. 9A(4)(b) substituted (S.) (1.4.2003) by [Local Government in Scotland Act 2003 \(asp 1\)](#), [ss. 60\(2\)](#), [62\(2\)](#); [S.S.I. 2003/134](#), [art. 2\(1\)](#), [sch.](#)

**F947** Words in s. 9A(9)(b) repealed (S.) (1.4.1996) by [1994 c. 39](#), [s. 180\(1\)\(2\)](#), [Sch. 13 para. 80\(3\)](#), [Sch. 14](#); [S.I. 1996/323](#), [art. 4\(1\)\(b\)\(c\)](#)

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

**C151** S. 9A excluded (24.12.1993) by 1993 c. 43, ss. 144(1), 150(1)(j); S.I. 1993/3237, art. 2(1)

**C152** S. 9A(8) excluded (18.2.1993) by 1989 c. xix, s. 28(7) (as inserted by 1993 c. ii, s. 14)

<sup>F82</sup>  
<sup>F83</sup>**9B**

#### Consultation and publicity with respect to policies as to services. **E+W+N.I.**

- (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 [<sup>F84</sup>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.]]

#### Extent Information

**E3** This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

#### Textual Amendments

**F82** Ss. 9A, 9B inserted (with savings for s. 9A(8)) by Transport Act 1985 (c. 67, SIF 126), s. 57(2)(5)

**F83** S. 9B repealed (1.2.2001 (E.) and omitted 1.8.2001 (W.) and repealed 14.8.2002 (W.) and otherwise *prosp.*) by 2000 c. 38, ss. 161, 274, 275(1), Sch. 11 para. 4, Sch. 31 Pt. II; S.I. 2001/57, art. 3, Sch. 3 Pt. I (subject to savings in Sch. 3 Pt. II); S.I. 2001/2788, art. 2, Sch. 1 para. 11; S.I. 2002/2024, art. 2

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**F84** Words inserted by [Transport Act 1985 \(c. 67, SIF 126\), s. 58\(3\)](#)

**[<sup>F948</sup>9B Consultation and publicity with respect to policies as to services. S**

- (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 [<sup>F949</sup>council (constituted under section 2 of the Local Government etc. (Scotland) Act 1994)] 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 [<sup>F950</sup>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.]

**Extent Information**

**E22** This version of this provision extends to Scotland only; a separate version has been created for England and Wales and Northern Ireland only

**Textual Amendments**

- F948** Ss. 9A, 9B inserted (with savings for s. 9A(8)) by [Transport Act 1985 \(c. 67, SIF 126\), s. 57\(2\)\(5\)](#)
- F949** Words in s. 9B(1)(a) substituted (S.) (1.4.1996) by [1994 c. 39, s. 180\(1\), Sch. 13 para. 80\(4\)](#); S.I. [1996/323, art. 4\(1\)\(b\)\(c\)](#)
- F950** Words inserted by [Transport Act 1985 \(c. 67, SIF 126\), s. 58\(3\)](#)

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**10 General powers of Executive. E+W+N.I.**

- (1) Subject to the provisions of this Act, the Executive for a <sup>F85</sup>an integrated transport area <sup>F86</sup> a combined authority area<sup>F87</sup>, a combined county authority area] or<sup>F88</sup> passenger transport] area shall have power—
  - (i) <sup>F89</sup>to carry passengers by road within, to and from that area;]
  - <sup>F90</sup>(ia) to carry passengers by railway—
    - (a) where that area is in England, between places in that area, between such places and any place in Great Britain which is outside that area, or between places in Great Britain which are outside that area, or
    - (b) where that area is in Wales or Scotland, between places in that area or between such places and any place outside that area but within the permitted distance, that is to say, the distance of twenty-five miles from the nearest point on the boundary of that area;]
  - (ii) to carry passengers by any <sup>F91</sup>form of land transport other than road or railway] or by any form of water transport (including in either case hovercraft) between places in that area or between such places and any place outside that area but within the permitted distance, that is to say, <sup>F92</sup>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<sup>F93</sup> (i) or<sup>F94</sup>(ia)(b) 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 <sup>F93</sup>(i) or<sup>F94</sup>(ia)(b) or] (ii) between places outside that area;
  - (iv) in any vehicle or vessel used for the carriage of passengers in pursuance of paragraph <sup>F95</sup>(i),<sup>F96</sup>(ia),] (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;
  - <sup>F97</sup>(vi) .....
  - <sup>F97</sup>(viza) .....
  - <sup>F98</sup>(via) with the approval of the Authority, to enter into and carry out agreements with any person who is the operator of, or who has an estate or interest in, or right over, a network, station or light maintenance depot or some part of a network, station or light maintenance depot, in connection with the building, replacement, redevelopment, refurbishment, repair, maintenance, operation or staffing of the network, station or light maintenance depot or any part thereof;]
  - (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) <sup>F99</sup>to let passenger vehicles on hire (with or without trailers for the carriage of goods)—



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- (a) as part of, or in connection with, an agreement providing for service subsidies, to an operator of public passenger transport services within the meaning of section 9A;
- (b) to a body holding a permit granted under section 19 of the Transport Act 1985 (permits in relation to the use of vehicles by educational and other bodies);]
- [<sup>F100</sup>(viiiia) to let locomotives and other rolling stock on hire to any person who is (within the meaning of Part I of the Railways Act 1993) the franchisee or the franchise operator under a franchise agreement to which the Executive is a party;
- [<sup>F101</sup>(viiiiaa) where that area is in England, to let locomotives and other rolling stock on hire to a person not falling within paragraph (viiiia) for or in connection with the provision of railway passenger services;]
- (viiiib) [<sup>F102</sup>where that area is in Wales or Scotland,] to let locomotives and other rolling stock on hire to a person not falling within paragraph (viiiia) above—
  - (a) for or in connection with the provision of railway passenger services within that area or within the permitted distance; or
  - (b) with the written consent of the Secretary of State, for or in connection with the provision of railway passenger services outside that area and beyond the permitted distance;
- (viiic) with the approval of the Authority, to enter into and carry out agreements with the owner of any locomotive or other rolling stock concerning the persons to whom, or the terms on which, the locomotive or other rolling stock may be let on hire;]
- (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;
- (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 [<sup>F103</sup>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

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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<sup>F104</sup> . . ., 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 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—

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- (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 [<sup>F105</sup>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 [<sup>F106</sup>any sums which are not immediately required by them for the purposes of their business][<sup>F106</sup>their money];
  - (xxviii) to turn their resources to account [<sup>F107</sup>so far as not required for the purposes of their business];
  - (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;
  - (xxxi) to provide for any person technical advice or assistance, including research services, as respects any matter in which the Executive have skill or experience;
  - (xxxii) 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 <sup>F108</sup> . . . shall

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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.

- [<sup>F109</sup>(2A) The reference in subsection (1)(viii) above to an agreement providing for service subsidies includes—
- (a) an agreement for such subsidies under section 9A(4) above;
  - (b) provision included in a quality contract under section 124 of the Transport Act 2000 for the making of payments by the PTE (see subsection (5)(a) of that section).]
- (3) If the Authority for [<sup>F110</sup>an integrated transport area ] [<sup>F111</sup>, a combined authority area] [<sup>F112</sup>, a combined county authority area] or a [<sup>F88</sup>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 <sup>M1</sup>[<sup>F113</sup>Acquisition of Land Act 1981] shall [<sup>F114</sup>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 [<sup>F115</sup>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) <sup>M2</sup>Act 1919 shall apply to the Executive for [<sup>F116</sup>an integrated transport area ] [<sup>F117</sup>, a combined authority area] [<sup>F118</sup>, a combined county authority area] or a [<sup>F88</sup>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) <sup>M3</sup>Act 1937 shall apply to the Executive for a [<sup>F88</sup>passenger transport] area as if that area were a [<sup>F119</sup>region] and the Executive were the council of that [<sup>F119</sup>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 [<sup>F88</sup>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 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 <sup>M4</sup>[<sup>F120</sup>Acquisition of Land Act 1981] references to the <sup>M5</sup>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.

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- [<sup>F121</sup>(10) This section applies to [<sup>F122</sup>each of the authorities within subsection (11)] as if—
- (a) in subsection (1)—
    - (i) in paragraph (xxiii), the words “subject, in the case of a disposal of land, to the approval of the Authority” were omitted, and
    - (ii) any other reference to the approval of the Authority were omitted;
  - (b) in subsection (7), the words “the approval of the Authority or” were omitted.]
- [<sup>F123</sup>(11) The authorities referred to in subsection (10) are—
- (a) the West Yorkshire Combined Authority;
  - (b) the West Midlands Combined Authority.]

#### Extent Information

- E4** This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only.

#### Textual Amendments

- F85** Words in s. 10(1) inserted (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), s. 134(4), [Sch. 4 para. 4](#); S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F86** Words in s. 10(1) inserted (1.4.2014) by [The Combined Authorities \(Consequential Amendments\) Order 2014 \(S.I. 2014/866\)](#), art. 1, [Sch. para. 4](#)
- F87** Words in s. 10(1) inserted (E.W.) (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), s. 255(2)(c), [Sch. 4 para. 10\(2\)](#) (with s. 247)
- F88** 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\(a\)](#)
- F89** S. 10(1)(i) repealed (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), ss. 66(6)(a), 134(4), [Sch. 7 Pt. 3](#); S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F90** S. 10(1)(ia) inserted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), [ss. 49\(1\)\(a\)](#), 115(7); S.I. 2015/994, art. 11(o)
- F91** Words in s. 10(1)(ii) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), [ss. 49\(1\)\(b\)](#), 115(7); S.I. 2015/994, art. 11(o)
- F92** 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\(a\)\(i\)](#)
- F93** Words in s. 10(1)(iii) repealed (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), s. 134(4), [Sch. 7 Pt. 3](#); S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F94** Words in s. 10(1)(iii) inserted (26.3.2015 for specified purposes) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e), [Sch. 8 para. 2\(2\)](#)
- F95** Word in s. 10(1)(iv) repealed (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), s. 134(4), [Sch. 7 Pt. 3](#); S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F96** Word in s. 10(1)(iv) inserted (26.3.2015 for specified purposes) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e), [Sch. 8 para. 2\(3\)](#)
- F97** S. 10(1)(vi)(viza) repealed (E.W.S.) (24.7.2005 for E.W.) by [Railways Act 2005 \(c. 14\)](#), ss. 14(1)(a), 60(2), [Sch. 13 Pt. 1](#) (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.
- F98** S. 10(1)(via) inserted (1.4.1994) by [1993 c. 43](#), s. [36\(1\)](#); S.I. 1994/571, [art. 5](#)
- F99** S. 10(1)(viii) substituted (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), [ss. 66\(2\)](#), 134(4); S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F100** S. 10 (1)(viiiia)-(viiiic) inserted (E.W.S.) (1.4.1994) by [1993 c. 43](#), s. [36\(2\)](#); S.I. 1994/571, [art. 5](#)
- F101** S. 10(1)(viiiiaa) inserted (26.3.2015 for specified purposes) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e), [Sch. 8 para. 2\(4\)](#)
- F102** Words in s. 10(1)(viiiib) inserted (26.3.2015 for specified purposes) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e), [Sch. 8 para. 2\(5\)](#)

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- F103** Words inserted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 139(2), **Sch. 7 para. 7**
- F104** Words repealed (S.) by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 29** and (E.W.) by Local Government Act 1974 (c. 7, SIF 81:2), **Sch. 8**
- F105** 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)**
- F106** Words in s. 10(1)(xxvii) substituted (E.W.) (18.2.2012) by Localism Act 2011 (c. 20), **ss. 12(2)(a)**, 240(2); S.I. 2012/411, art. 2(e)
- F107** Words in s. 10(1)(xxviii) repealed (E.W.) (18.2.2012) by Localism Act 2011 (c. 20), **ss. 12(2)(b)**, 240(2), **Sch. 25 Pt. 3**; S.I. 2012/411, art. 2(e)(g)
- F108** 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
- F109** S. 10(2A) inserted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), **ss. 66(3)**, 134(4); S.I. 2009/107, art. 2(1), **Sch. 1 Pt. 1**
- F110** Words in s. 10(3) inserted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 4**; S.I. 2009/107, art. 2(1), **Sch. 1 Pt. 1**
- F111** Words in s. 10(3) inserted (1.4.2014) by The Combined Authorities (Consequential Amendments) Order 2014 (S.I. 2014/866), art. 1, **Sch. para. 4**
- F112** Words in s. 10(3) inserted (E.W.) (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 10(3)** (with s. 247)
- F113** Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(2)(a)**
- F114** 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)**
- F115** Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(3)(a)**
- F116** Words in s. 10(5) inserted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 4**; S.I. 2009/107, art. 2(1), **Sch. 1 Pt. 1**
- F117** Words in s. 10(5) inserted (1.4.2014) by The Combined Authorities (Consequential Amendments) Order 2014 (S.I. 2014/866), art. 1, **Sch. para. 4**
- F118** Words in s. 10(5) inserted (E.W.) (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 10(4)** (with s. 247)
- F119** Word substituted by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 18 para. 2(b)**
- F120** Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(2)(b)**
- F121** S. 10(10) inserted (E.W.) (1.4.2014) by The West Yorkshire Combined Authority Order 2014 (S.I. 2014/864), art. 1(2), **Sch. 2 para. 4**
- F122** Words in s. 10(10) substituted (E.W.) (17.6.2016) by The West Midlands Combined Authority Order 2016 (S.I. 2016/653), art. 1(2), **Sch. 2 para. 4(2)**
- F123** S. 10(11) inserted (E.W.) (17.6.2016) by The West Midlands Combined Authority Order 2016 (S.I. 2016/653), art. 1(2), **Sch. 2 para. 4(3)**

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

- C8** S. 10: transfer of functions (S.) (28.11.2005) by The Transfer of Rail Functions To The Scottish Ministers Order 2005 (S.S.I. 2005/598), arts. 1, 3, **sch. 1** (with art. 5)
- C9** S. 10(1)(vi) modified (temp.) (26.3.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Deregulation Act 2015 (c. 20), s. 115(2)(e), **Sch. 8 para. 3**; S.I. 2015/994, art. 11(o)
- C10** S. 10(1)(viza) modified (temp.) (26.3.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Deregulation Act 2015 (c. 20), s. 115(2)(e), **Sch. 8 para. 3**; S.I. 2015/994, art. 11(o)
- C11** S. 10(1)(xiii) restricted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 104(1)**
- C12** 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)

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M5 1947 c. 42(28:2)

## 10 General powers of Executive. **S**

- (1) Subject to the provisions of this Act, the Executive for a [<sup>F951</sup>passenger transport] area shall have power—
- (i) to carry passengers by road within, to and from that area;
  - [<sup>F90</sup>(ia) to carry passengers by railway—
    - (a) where that area is in England, between places in that area, between such places and any place in Great Britain which is outside that area, or between places in Great Britain which are outside that area, or
    - (b) where that area is in Wales or Scotland, between places in that area or between such places and any place outside that area but within the permitted distance, that is to say, the distance of twenty-five miles from the nearest point on the boundary of that area;]
  - (ii) to carry passengers by any [<sup>F91</sup>form of land transport other than road or railway] or by any form of water transport (including in either case hovercraft) between places in that area or between such places and any place outside that area but within the permitted distance, that is to say, [<sup>F952</sup>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 [<sup>F94</sup>(ia)(b) 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 [<sup>F94</sup>(ia)(b) or] (ii) between places outside that area;
  - (iv) in any vehicle or vessel used for the carriage of passengers in pursuance of paragraph (i), [<sup>F96</sup>(ia),] (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 [<sup>F953</sup>the Strategic Rail Authority or any wholly-owned subsidiary of the Strategic Rail Authority in respect of railway passenger services provided] 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;
  - (viza) to enter into agreements with the Strategic Rail Authority under which the Executive make payments to the Strategic Rail Authority in respect of the cost incurred by it in securing the provision of a bus substitution service (within the meaning of the <sup>M64</sup>Railways Act 1993) between places in that area or between such places and places outside that area but within the permitted distance for the purposes of paragraph (ii) of this subsection;
  - [<sup>F954</sup>(via) with the approval of the Authority, to enter into and carry out agreements with any person who is the operator of, or who has an estate or interest in, or right over, a network, station or light maintenance depot or some part of a network, station or light maintenance depot, in connection with the building,

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- replacement, redevelopment, refurbishment, repair, maintenance, operation or staffing of the network, station or light maintenance depot or any part thereof;]
- (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;
  - [<sup>F955</sup>(viiiia) to let locomotives and other rolling stock on hire to any person who is (within the meaning of Part I of the Railways Act 1993) the franchisee or the franchise operator under a franchise agreement to which the Executive is a party;
  - [<sup>F101</sup>(viiiiaa) [ where that area is in England, to let locomotives and other rolling stock on hire to a person not falling within paragraph (viiiia) for or in connection with the provision of railway passenger services;]
  - (viiiib) [<sup>F102</sup>where that area is in Wales or Scotland,] to let locomotives and other rolling stock on hire to a person not falling within paragraph (viiiia) above—
    - (a) for or in connection with the provision of railway passenger services within that area or within the permitted distance; or
    - (b) with the written consent of the Secretary of State, for or in connection with the provision of railway passenger services outside that area and beyond the permitted distance;
  - (viiiic) with the approval of the Authority, to enter into and carry out agreements with the owner of any locomotive or other rolling stock concerning the persons to whom, or the terms on which, the locomotive or other rolling stock may be let on hire;]
  - (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;
  - (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;



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- (xiii) subject to section 15(2) of this Act and [<sup>F956</sup>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 <sup>F957</sup> . . . , 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 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;

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- (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 [<sup>F958</sup>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;
- (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;
- (xxxi) to provide for any person technical advice or assistance, including research services, as respects any matter in which the Executive have skill or experience;
- (xxxii) to do all other things which in their opinion are necessary to facilitate the proper carrying on of their business.

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- (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 <sup>F959</sup>. . . 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 [<sup>F951</sup>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 <sup>M65</sup>[<sup>F960</sup>Acquisition of Land Act 1981] shall 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.
- (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 [<sup>F961</sup>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) <sup>M66</sup>Act 1919 shall apply to the Executive for a [<sup>F951</sup>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) <sup>M67</sup>Act 1937 shall apply to the Executive for a [<sup>F951</sup>passenger transport] area as if [<sup>F962</sup>the Executive were within the meaning of that Act a local authority for that area].
- (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 [<sup>F951</sup>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 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 <sup>M68</sup>[<sup>F963</sup>Acquisition of Land Act 1981] references to the <sup>M69</sup>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.

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### Extent Information

- E23** This version of this provision extends to Scotland only; separate versions have been created for England and Wales only and Northern Ireland only.

### Textual Amendments

- F90** S. 10(1)(ia) inserted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), [ss. 49\(1\)\(a\)](#), 115(7); S.I. 2015/994, [art. 11\(o\)](#)
- F91** Words in s. 10(1)(ii) substituted (1.10.2015) by [Deregulation Act 2015 \(c. 20\)](#), [ss. 49\(1\)\(b\)](#), 115(7); S.I. 2015/994, [art. 11\(o\)](#)
- F94** Words in s. 10(1)(iii) inserted (26.3.2015 for specified purposes) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e), [Sch. 8 para. 2\(2\)](#)
- F96** Word in s. 10(1)(iv) inserted (26.3.2015 for specified purposes) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e), [Sch. 8 para. 2\(3\)](#)
- F101** S. 10(1)(viiiia) inserted (26.3.2015 for specified purposes) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e), [Sch. 8 para. 2\(4\)](#)
- F102** Words in s. 10(1)(viiiib) inserted (26.3.2015 for specified purposes) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e), [Sch. 8 para. 2\(5\)](#)
- F951** 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\(a\)](#)
- F952** 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\(a\)\(i\)](#)
- F953** Words in s. 10(1)(vi) substituted (1.2.2001) by [2000 c. 38, s. 252](#), [Sch. 27 para. 3\(2\)](#); S.I. 2001/57, [art. 3](#), [Sch. 2 Pt. I](#) (subject to transitional provision and saving in [Sch. 2 Pt. II](#))
- F954** S. 10(1)(via) inserted (1.4.1994) by [1993 c. 43, s. 36\(1\)](#); S.I. 1994/571, [art. 5](#)
- F955** S. 10(1)(viiiia)-(viiiic) inserted (1.4.1994) by [1993 c. 43, s. 36\(2\)](#); S.I. 1994/571, [art. 5](#)
- F956** Words inserted (E.W.S) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 139(2), [Sch. 7 para. 7](#)
- F957** Words repealed (S.) by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), [Sch. 29](#) and (E.W.) by [Local Government Act 1974 \(c. 7, SIF 81:2\)](#), [Sch. 8](#)
- F958** 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\(a\)\(ii\)](#)
- F959** 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](#)
- F960** Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), [Sch. 4 para. 18\(2\)\(a\)](#)
- F961** Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), [Sch. 4 para. 18\(3\)\(a\)](#)
- F962** Words in s. 10(6) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 80\(5\)](#); S.I. 1996/323, [art. 4\(1\)\(b\)\(c\)](#)
- F963** Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), [Sch. 4 para. 18\(2\)\(b\)](#)

### Modifications etc. (not altering text)

- C8** S. 10: transfer of functions (S.) (28.11.2005) by [The Transfer of Rail Functions To The Scottish Ministers Order 2005 \(S.S.I. 2005/598\)](#), [arts. 1, 3](#), [sch. 1](#) (with [art. 5](#))
- C9** S. 10(1)(vi) modified (temp.) (26.3.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e), [Sch. 8 para. 3](#); S.I. 2015/994, [art. 11\(o\)](#)
- C10** S. 10(1)(viza) modified (temp.) (26.3.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e), [Sch. 8 para. 3](#); S.I. 2015/994, [art. 11\(o\)](#)
- C153** S. 10 modified (28.11.2005) by [The Transfer of Rail Functions To The Scottish Ministers Order 2005 \(S.I. 2005/598\)](#), [art. 4](#), [Sch. 2 para. 1](#)
- C154** Power to exclude s. 10(1)(i) conferred (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), [s. 60\(5\)](#)
- C155** Power to repeal s. 10(1)(i) conferred (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), [s. 60\(7\)\(8\)](#)
- C156** Power to exclude s. 10(1)(viii) conferred (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), [s. 60\(5\)](#)
- C157** Power to repeal s. 10(1)(viii) conferred (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), [s. 60\(7\)\(8\)](#)

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**C158** S. 10(1)(xiii) restricted (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\), s. 104\(1\)](#)

**C159** S. 10(1)(xv) restricted (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\), s. 82\(5\)](#)

#### Marginal Citations

**M64** 1993 c. 43.

**M65** 1981 c. 67.(28:1).

**M66** 1919 c. 75.

**M67** 1937 c. 28.

**M68** 1981 c. 67.(28:1)

**M69** 1947 c. 42(28:2)

### [<sup>F124</sup>10A Further powers of Executives

- (1) The Executive of an integrated transport area [<sup>F125</sup>, combined authority area or combined county authority area] in England may do—
  - (a) anything the Executive considers appropriate for the purposes of the carrying-out of any of the Executive's functions (the Executive's “functional purposes”),
  - (b) anything the Executive considers appropriate for purposes incidental to the Executive's functional purposes,
  - (c) anything the Executive considers appropriate for purposes indirectly incidental to the Executive's functional purposes through any number of removes,
  - (d) anything the Executive considers to be connected with—
    - (i) any of the Executive's functions, or
    - (ii) anything the Executive may do under paragraph (a), (b) or (c), and
  - (e) for a commercial purpose anything which the Executive may do under any of paragraphs (a) to (d) otherwise than for a commercial purpose.
- (2) Where subsection (1) confers power on the Executive to do something, it confers power (subject to section 10B) to do it anywhere in the United Kingdom or elsewhere.
- (3) The Executive's power under subsection (1) is in addition to, and is not limited by, the other powers of the Executive.

#### Textual Amendments

**F124** Ss. 10A-10C inserted (E.W.) (18.2.2012) by [Localism Act 2011 \(c. 20\), ss. 12\(1\), 240\(2\); S.I. 2012/411, art. 2\(e\)](#)

**F125** Words in s. 10A(1) substituted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\), s. 255\(2\)\(c\), Sch. 4 para. 11](#) (with s. 247)

### 10B Boundaries of power under section 10A

- (1) Section 10A(1) does not enable the Executive to do—
  - (a) anything which the Executive is unable to do by virtue of a pre-commencement limitation, or
  - (b) anything which the Executive is unable to do by virtue of a post-commencement limitation which is expressed to apply—
    - (i) to the Executive's power under section 10A(1),

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- (ii) to all of the Executive's powers, or
  - (iii) to all of the Executive's powers but with exceptions that do not include the Executive's power under section 10A(1).
- (2) If exercise of a pre-commencement power of the Executive is subject to restrictions, those restrictions apply also to exercise of the power conferred on the Executive by section 10A(1) so far as it is overlapped by the pre-commencement power.
- (3) Section 10A(1) does not authorise the Executive to borrow money.
- (4) Section 10A(1)(a) to (d) do not authorise the Executive to charge a person for anything done by the Executive otherwise than for a commercial purpose, but this does not limit any power to charge that the Executive has otherwise than under section 10A(1)(a) to (d).
- (5) Section 10A(1)(e) does not authorise the Executive to do things for a commercial purpose in relation to a person if a statutory provision requires the Executive to do those things in relation to the person.
- (6) Where under section 10A(1)(e) the Executive does things for a commercial purpose, it must do them through—
- (a) a company within the meaning given by section 1(1) of the Companies Act 2006, or
  - (b) [<sup>F126</sup>a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014 or a society registered or deemed to be registered under] the Industrial and Provident Societies Act (Northern Ireland) 1969.
- (7) In this section—
- “post-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—
    - (a) is contained in an Act passed after the end of the Session in which the Localism Act 2011 is passed, or
    - (b) is contained in an instrument made under an Act and comes into force on or after the commencement of section 12(1) of that Act;
  - “pre-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—
    - (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
    - (b) is contained in an instrument made under an Act and comes into force before the commencement of section 12(1) of that Act;
  - “pre-commencement power” means power conferred by a statutory provision that—
    - (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
    - (b) is contained in an instrument made under an Act and comes into force before the commencement of section 12(1) of that Act;
  - “statutory provision” means a provision of an Act or of an instrument made under an Act.

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### Textual Amendments

**F124** Ss. 10A-10C inserted (E.W.) (18.2.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 12(1)**, 240(2); S.I. 2012/411, **art. 2(e)**

**F126** Words in s. 10B(6)(b) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, **Sch. 4 para. 22** (with Sch. 5)

## 10C Power to make provision supplemental to section 10A

- (1) The Secretary of State may by order make provision preventing the Executive from doing under section 10A(1) anything which is specified, or is of a description specified, in the order.
- (2) The Secretary of State may by order provide for the exercise by the Executive of power conferred by section 10A(1) to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the order.
- (3) The power under subsection (1) or (2) may be exercised in relation to—
  - (a) all Executives,
  - (b) particular Executives, or
  - (c) particular descriptions of Executives.
- (4) Before making an order under subsection (1) or (2) the Secretary of State must consult—
  - (a) such representatives of Executives,
  - (b) such representatives of local government, and
  - (c) such other persons (if any),as the Secretary of State considers appropriate.
- (5) Subsection (4) does not apply to an order under subsection (1) or (2) which is made only for the purpose of amending an earlier such order—
  - (a) so as to extend the earlier order, or any provision of the earlier order, to a particular Executive or to Executives of a particular description, or
  - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular Executive or to Executives of a particular description.
- (6) Power to make an order under this section includes—
  - (a) power to make different provision for different cases, circumstances or areas, and
  - (b) power to make incidental, supplementary, consequential, transitional or transitory provision or savings.
- (7) A statutory instrument containing an order to which subsection (8) applies (whether alone or with other provisions) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (8) This subsection applies to—
  - (a) an order under subsection (1), other than one that is made only for the purpose mentioned in subsection (5)(b);
  - (b) an order under subsection (2), other than one that is made only for that purpose or for imposing conditions on the doing of things for a commercial purpose.

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- (9) A statutory instrument that—
- (a) contains an order made under this section, and
  - (b) is not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament,
- is subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F124** Ss. 10A-10C inserted (E.W.) (18.2.2012) by [Localism Act 2011 \(c. 20\)](#), ss. **12(1)**, 240(2); S.I. 2012/411, art. 2(e)

## 11 Financial duty of Executive.

- [<sup>F127</sup>(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 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 [<sup>F128</sup>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.
- [<sup>F129</sup>(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.]
- [<sup>F130</sup>(3B) Subsection (3A) applies to [<sup>F131</sup>each of the authorities within subsection (3C)] as if the words from “and the Authority” to “the application thereof” were omitted.]
- [<sup>F132</sup>(3C) The authorities referred to in subsection (3B) are—
- (a) the West Yorkshire Combined Authority;
  - (b) the West Midlands Combined Authority.]

[<sup>F133</sup>(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—



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- (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

- F127** 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**
- F128** Words substituted (S.) by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 18 para. 3**
- F129** 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**
- F130** S. 11(3B) inserted (1.4.2014) by [The West Yorkshire Combined Authority Order 2014 \(S.I. 2014/864\)](#), art. 1(2), **Sch. 2 para. 5**
- F131** Words in s. 11(3B) substituted (E.W.) (17.6.2016) by [The West Midlands Combined Authority Order 2016 \(S.I. 2016/653\)](#), art. 1(2), **Sch. 2 para. 5(2)**
- F132** S. 11(3C) inserted (E.W.) (17.6.2016) by [The West Midlands Combined Authority Order 2016 \(S.I. 2016/653\)](#), art. 1(2), **Sch. 2 para. 5(3)**
- F133** 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 [ <sup>F134</sup>an integrated transport area [ <sup>F135</sup>, a combined authority area] <sup>F136</sup>, a combined county authority area] or] a [ <sup>F137</sup>designated] [ <sup>F137</sup>passenger transport] area.
- (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. . . <sup>F138</sup>
  - (e) for subscribing for or acquiring securities of a body corporate otherwise than by way of investment;

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- (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) [<sup>F139</sup>Each of the councils of constituent areas][<sup>F139</sup>The Authority for the Executive’s area] shall have power to lend money to the Executive [<sup>F140</sup>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.

<sup>F141</sup>(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;
  - <sup>M6</sup>(b) .....

- [<sup>F142</sup>(8) This section does not apply to—
  - (a) the West Yorkshire Combined Authority, or
  - (b) the West Midlands Combined Authority.]

#### Textual Amendments

- F134** Words in s. 12(1) inserted (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), s. 134(4), **Sch. 4 para. 5**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F135** Words in s. 12(1) inserted (1.4.2014) by [The Combined Authorities \(Consequential Amendments\) Order 2014 \(S.I. 2014/866\)](#), art. 1, **Sch. para. 6**
- F136** Words in s. 12(1) inserted (E.W.) (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), s. 255(2)(c), **Sch. 4 para. 12** (with s. 247)
- F137** Words substituted (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), S. 57(6), **Sch. 3 para 2(a)**
- F138** Words repealed by [Transport Act 1985 \(c. 67, SIF 126\)](#), ss. 57(6), 139(3), **Sch. 3 para. 6(a)**, Sch. 8
- F139** Words substituted (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 57(6), **Sch. 3 para. 6(b)(i)**
- F140** Words substituted (E.W.S.) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 194(1), **Sch. 11 para. 16**

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- F141** 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](#)
- F142** S. 12(8) substituted (E.W.) (17.6.2016) by [The West Midlands Combined Authority Order 2016 \(S.I. 2016/653\)](#), [art. 1\(2\)](#), [Sch. 2 para. 6](#)

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

- C13** S. 12(2) amended (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), [s. 133\(2\)](#)
- C14** S. 12(3)(d) amended (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), [s. 133\(2\)](#)
- C15** S. 12(3)(g) amended (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), [s. 133\(2\)](#)
- C16** 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](#)

### [<sup>F143</sup>**13** **Power to make grants.** **E+W**

[ The Authority shall have power to make grants to the Executive for any purpose.  
<sup>F144</sup>(1)]

[<sup>F145</sup>(2) This section does not apply to—  
(a) the West Yorkshire Combined Authority, or  
(b) the West Midlands Combined Authority.]]

#### Extent Information

- E5** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F143** S. 13 substituted (E.W.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 57(6), [Sch. 3 para. 7](#)
- F144** S. 13 renumbered as s. 13(1) (E.W.) (1.4.2014) by [The West Yorkshire Combined Authority Order 2014 \(S.I. 2014/864\)](#), [art. 1\(2\)](#), [Sch. 2 para. 7\(a\)](#)
- F145** S. 13(2) substituted (E.W.) (17.6.2016) by [The West Midlands Combined Authority Order 2016 \(S.I. 2016/653\)](#), [art. 1\(2\)](#), [Sch. 2 para. 7](#)

### [<sup>F964</sup>**13** **Grants and payments.** **S**

- (1) Any expenditure of the Strathclyde Passenger Transport Authority shall, in so far as not otherwise met, be met by the local authorities whose areas lie wholly or partly within the area of the Authority in such proportions as the <sup>M70</sup>authorities may agree.
- (2) Where—
- (a) the authorities mentioned in subsection (1) above cannot reach agreement as to the proportions in which the expenditure of the Authority shall be met by them and the Authority make an application to the Secretary of State for resolution of the matter; or
- (b) it appears to the Secretary of State that those authorities are unable to reach such agreement,

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the Secretary of State shall determine the proportions in which such expenditure shall be met by those authorities.

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

**Extent Information**

**E24** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

**Textual Amendments**

**F964** S. 13 substituted (S.) (1.4.1996) by 1994 c. 39, s. 41 (with s. 7(2)); S.I. 1996/323, art. 4(1)(a), Sch. 1

**Marginal Citations**

**M70** 1968 c. 73.

[<sup>F146</sup>**13A Guarantees by Authority.**

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

**Textual Amendments**

**F146** S. 13A inserted (S.) (3.11.1994) by 1994 c. 39, ss. 163, 184(2)

**14 Accounts of Executive.** E+W

- (1) The Executive for [<sup>F147</sup>an integrated transport area ] [<sup>F148</sup>, a combined authority area] [<sup>F149</sup>, a combined county authority area] or a [<sup>F150</sup>passenger transport] area shall—
  - (a) cause proper accounts and other records in relation to their business to be kept;
    - <sup>F151</sup> . . . . .
    - <sup>F151</sup>(b) . . . . .

<sup>F152</sup>(2) . . . . .

- <sup>F153</sup>(3) As soon as the accounts of the Executive for any accounting period have been audited in accordance with the Local Audit and Accountability Act 2014, they must send a copy of the statement of accounts prepared by them for that period under section 3 of that Act, together with a copy of the auditor's opinion on that statement—
  - (a) to the Secretary of State,
  - (b) to the Authority, and
  - (c) to each of the councils of the districts comprised in the county which is coterminous with or includes the Executive's area.]

- <sup>F154</sup>(4) This section does not apply to—
  - (a) the West Yorkshire Combined Authority, or
  - (b) the West Midlands Combined Authority.]

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#### Extent Information

- E6** This version of this provision extends to England and Wales only; separate versions have been created for Scotland only and for Northern Ireland only

#### Textual Amendments

- F147** Words in s. 14(1) inserted (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), s. 134(4), [Sch. 4 para. 6](#); [S.I. 2009/107](#), art. 2(1), [Sch. 1 Pt. 1](#)
- F148** Words in s. 14(1) inserted (1.4.2014) by [The Combined Authorities \(Consequential Amendments\) Order 2014 \(S.I. 2014/866\)](#), art. 1, [Sch. para. 7](#)
- F149** Words in s. 14(1) inserted (E.W.) (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), s. 255(2)(c), [Sch. 4 para. 13](#) (with s. 247)
- F150** Words in s. 14(1) substituted (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 57(6), [Sch. 3 para. 2\(a\)](#)
- F151** Word in s. 14(1) 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](#)
- F152** 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](#)
- F153** S. 14(3) substituted (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), [Sch. 12 para. 3](#); [S.I. 2015/841](#), art. 3(x) (with [Sch. paras. 1, 7](#)) (as amended (27.6.2016) by [S.I. 2016/675](#), art. 2)
- F154** S. 14(4) substituted (E.W.) (17.6.2016) by [The West Midlands Combined Authority Order 2016 \(S.I. 2016/653\)](#), art. 1(2), [Sch. 2 para. 8](#)

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

- C17** S. 14(1)(a) excluded (E.W.) by [Local Government Finance Act 1982 \(c. 32, SIF 81:1\)](#), s. 31(3)  
S. 14(1)(a) restricted (E.W.) (11.9.1998) by [1998 c. 18](#), ss. 30(2), 55(2)
- C18** S. 14(3) applied (with modifications) (10.2.2015) by [The Local Audit \(Smaller Authorities\) Regulations 2015 \(S.I. 2015/184\)](#), reg. 1, [Sch. para. 33](#)

## 14 Accounts of Executive. **S**

- (1) The Executive for a [<sup>F965</sup>passenger transport] area shall—
- cause proper accounts and other records in relation to their business to be kept; and
  - 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 [<sup>F966</sup>Authority] may from time to time direct.
- (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 [<sup>F967</sup>who is eligible for appointment as a [<sup>F968</sup>statutory auditor under Part 42 of the Companies Act 2006] or who is a member of the Chartered Institute of Public Finance and Accountancy;] 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.
- (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

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to the Minister, [<sup>F969</sup>and] to the Authority <sup>F970</sup> . . . <sup>F971</sup> . . . together with a copy of the report made by the auditor or auditors on that statement.

#### Extent Information

**E25** This version of this provision extends to Scotland only; separate versions have been created for England and Wales only and for Northern Ireland only.

#### Textual Amendments

- F965** Words in s. 14(1) substituted (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 57(6), **Sch. 3 para. 2(a)**
- F966** Word in s. 14(1)(b) substituted (S.) by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), **Sch. 18 para. 6(a)**
- F967** Words in s. 14(2) substituted (1.10.1991) by virtue of S.I. 1991/1997, reg. 2, **Sch. para. 21(2)**.
- F968** Words in s. 14(2) substituted (N.I. and S.) (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), **Sch. 1 para. 1(k)** (with arts. 6, 11, 12)
- F969** Word in s. 14(3) inserted (S.) by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 18 para. 6(b)**
- F970** Words s. 14(3) repealed (S.) by [Transport Act 1985 \(c.67, SIF 126\)](#), ss. 57(6), 139(3), **Sch. 3 para. 9, Sch. 8**
- F971** Words in s. 14(3) repealed (S.) by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29** and repealed (S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 57(6), **Sch. 3 para. 21(3)(b)**

## 14 Accounts of Executive. **N.I.**

- (1) The Executive for a designated area shall—
- (a) cause proper accounts and other records in relation to their business to be kept; 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 Minister may from time to time direct.
- (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 [<sup>F972</sup>who is eligible for appointment as a [<sup>F968</sup>statutory auditor under Part 42 of the Companies Act 2006] or who is a member of the Chartered Institute of Public Finance and Accountancy;] 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.
- (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, to the Authority for the designated area 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.

#### Extent Information

**E26** This version of this provision extends to Northern Ireland only; separate versions have been created for England and Wales only and for Scotland only

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**Textual Amendments**

- F968** Words in s. 14(2) substituted (N.I. and S.) (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 1\(k\)](#) (with arts. 6, 11, 12)
- F972** Words in s. 14(2) substituted (1.10.1991) by virtue of [S.I. 1991/1997](#), reg. 2, [Sch. para. 21\(2\)](#).

**15 Further functions of Authority. E+W**

- (1) The Executive for [<sup>F155</sup>an integrated transport area ][<sup>F156</sup>, a combined authority area][<sup>F157</sup>, a combined county authority area] or a [<sup>F158</sup>passenger transport] area shall submit to the Authority and obtain the Authority’s approval of—
  - <sup>F159</sup>(a) .....
  - <sup>F160</sup>(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 <sup>F161</sup>....;
- (2) The Executive shall obtain the approval of the Authority—
  - (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 <sup>F162</sup>...; and
  - (b) subject to section [<sup>F163</sup>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;

<sup>F164</sup> .....
- <sup>F165</sup>(3) .....
- <sup>F166</sup>(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 [<sup>F167</sup>an integrated transport area ][<sup>F168</sup>, a combined authority area][<sup>F169</sup>, a combined county authority area] or a [<sup>F158</sup>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.

[<sup>F170</sup>(8) This section does not apply to—

- (a) the West Yorkshire Combined Authority, or
- (b) the West Midlands Combined Authority.]

### Extent Information

**E7** This version of this provision extends to England and Wales only; separate versions have been made for Scotland only and Northern Ireland only

### Textual Amendments

- F155** Words in s. 15(1) inserted (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), s. 134(4), [Sch. 4 para. 7](#); [S.I. 2009/107](#), art. 2(1), [Sch. 1 Pt. 1](#)
- F156** Words in s. 15(1) inserted (1.4.2014) by [The Combined Authorities \(Consequential Amendments\) Order 2014 \(S.I. 2014/866\)](#), art. 1, [Sch. para. 8](#)
- F157** Words in s. 15(1) inserted (E.W.) (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), s. 255(2)(c), [Sch. 4 para. 14\(2\)](#) (with s. 247)
- F158** 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\(a\)](#)
- F159** 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
- F160** 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\(a\)](#)
- F161** Words in s. 15(1)(d) repealed (E.W.S.) (24.7.2005 for E.W.) by [Railways Act 2005 \(c. 14\)](#), s. 60(2), [Sch. 13 Pt. 1](#) (with s. 14(4)(5), [Sch. 11 para. 11\(2\)](#)); [S.I. 2005/1909](#), art. 2, Sch.
- F162** 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
- F163** 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](#)
- F164** 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
- F165** 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
- F166** 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
- F167** Words in s. 15(6) inserted (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), s. 134(4), [Sch. 4 para. 7](#); [S.I. 2009/107](#), art. 2(1), [Sch. 1 Pt. 1](#)
- F168** Words in s. 15(6) inserted (1.4.2014) by [The Combined Authorities \(Consequential Amendments\) Order 2014 \(S.I. 2014/866\)](#), art. 1, [Sch. para. 8](#)
- F169** Words in s. 15(6) inserted (E.W.) (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), s. 255(2)(c), [Sch. 4 para. 14\(3\)](#) (with s. 247)
- F170** S. 15(8) substituted (E.W.) (17.6.2016) by [The West Midlands Combined Authority Order 2016 \(S.I. 2016/653\)](#), art. 1(2), [Sch. 2 para. 9](#)

### Modifications etc. (not altering text)

- C19** S. 15(2) modified (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 104(2)
- C20** S. 15(2) excluded (27.7.1993) by [1993 c. xv](#), s. 66(5)
- S. 15(2) restricted (11.11.1996) by [S.I. 1996/2714](#), art. 44(5)
- S. 15(2) explained (14.3.2002) by [S.I. 2002/412](#), art. 32(5) (with s. 38)



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- C21 S. 15(2) restricted (3.8.2005) by [The Greater Manchester \(Leigh Busway\) Order 2005 \(S.I. 2005/1918\)](#), arts. 1, **45(5)**
- C22 S. 15(2) excluded (11.1.2006) by [The Cambridgeshire Guided Busway Order 2005 \(S.I. 2005/3523\)](#), arts. 1, **47(5)** (with art. 52)
- C23 S. 15(2) excluded (E.W.S.) (13.12.2006) by [The Luton Dunstable Translink Order 2006 \(S.I. 2006/3118\)](#), arts. 1, **42(12)**
- C24 S. 15(2)(a) modified (E.W.) by [Transport Act 1983 \(c. 10, SIF 126\)](#), s. **6(6)(a)**
- C25 S. 15(2)(a) amended (E.W.) by [Transport Act 1983 \(c. 10, SIF 126\)](#), s. **6(7)**
- C26 S. 15(2)(b) modified (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 139(1), **Sch. 6 para. 24**
- C27 S. 15(5) extended (E.W.) by [Transport Act 1983 \(c. 10, SIF 126\)](#), ss. **9(3)**, 10(1)(a)
- C28 S. 15(5) amended (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. **133(2)**

## 15 Further functions of Authority. **S**

(1) The Executive for a [<sup>F973</sup>passenger transport] area shall submit to the Authority and obtain the Authority's approval of—<sup>F974</sup>

- (a) .....
- <sup>F975</sup>(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 [<sup>F976</sup>the Strategic Rail Authority or a wholly-owned subsidiary of the Strategic Rail Authority for the provision] of that Board for the provision by the Board or the wholly-owned subsidiary of any railway passenger services within, or to and from, that area;;

(2) The Executive shall obtain the approval of the Authority—

- (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<sup>F977</sup> . . . ; and
- (b) subject to section [<sup>F978</sup>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;

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 [<sup>F979</sup>of the grants which will be needed to enable the Executive to comply with their obligation under section 11(1) of this Act]. . .

<sup>F980</sup>(3) .....

(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,<sup>F981</sup> . . . ]

(5) Any expenditure incurred by the Authority in performing their functions under this Part of this Act shall be defrayed by the Executive.

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- (6) Notwithstanding anything in this Part of this Act, nothing done by the Executive for a [<sup>F973</sup>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.
- (7) Any approval or direction given by the Authority in pursuance of this Part of this Act shall be given in writing.

#### Extent Information

- E27** This version of this provision extends to Scotland only; separate versions have been created for England and Wales only and Northern Ireland only

#### Textual Amendments

- F973** 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\(a\)](#)
- F974** 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
- F975** 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\(a\)](#)
- F976** S. 15(1)(d) substituted (1.2.2001) by 2000 c. 38, s. 252, [Sch. 27 para. 4](#); S.I. 2001/57, art. 3, [Sch. 2 Pt. I](#) (subject to transitional provision and saving in [Sch. 2 Pt. II](#))
- F977** 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
- F978** 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](#)
- F979** 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\(b\)](#)
- F980** 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
- F981** Words repealed (E.W.) by [Local Government Act 1974 \(c. 7, SIF 81:2\)](#), [Sch. 8](#) and (S.) by [Local Government \(Scotland\) Act 1975 \(c. 30, SIF 81:2\)](#), [Sch. 7](#)

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

- C23** S. 15(2) excluded (E.W.S.) (13.12.2006) by [The Luton Dunstable Translink Order 2006 \(S.I. 2006/3118\)](#), arts. 1, [42\(12\)](#)
- C160** S. 15(2) modified (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. [104\(2\)](#)
- C161** S. 15(2) excluded (27.7.1993) by 1993 c. xv, s. [66\(5\)](#)  
S. 15(2) restricted (11.11.1996) by S.I. 1996/2714, [art. 44\(5\)](#)  
S. 15(2) explained (14.3.2002) by S.I. 2002/412, [art. 32\(5\)](#) (with s. 38)
- C162** S. 15(2)(b) modified (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 139(1), [Sch. 6 para. 24](#)
- C163** S. 15(5) amended (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. [133\(2\)](#)

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## 15 Further functions of Authority. **N.I.**

- (1) The Executive for a designated area shall submit to the Authority and obtain the Authority's approval of—
  - (a) any proposal for a major reorganisation of any transport services provided within or to and from that area;
  - (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;
  - (d) any agreement proposed to be entered into by the Executive otherwise than under section 20(2)(b) of this Act with [<sup>F982</sup>the Strategic Rail Authority or a wholly-owned subsidiary of the Strategic Rail Authority for the provision] of that Board for the provision by the Board or the wholly-owned subsidiary of any railway passenger services within, or to and from, that area;
- (2) The Executive shall obtain the approval of the Authority—
  - (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 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 138(1) of this Act, for any proposal of the Executive for reducing or waiving those charges in a particular case or cases of a particular class;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 to be raised by precepts or, in Scotland, requisitions under section 13 of this Act, 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.
- (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 designated 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 to issue a precept under section 13 of this Act to meet any cost incurred by the Executive in consequence of the direction.
- (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, 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.

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- (6) Notwithstanding anything in this Part of this Act, nothing done by the Executive for a designated 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.
- (7) Any approval or direction given by the Authority in pursuance of this Part of this Act shall be given in writing.

#### Extent Information

**E28** This version of this provision extends to Northern Ireland only; separate versions have been created for England and Wales and Scotland only

#### Textual Amendments

**F982** Words in s. 15(1)(d) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 4**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in **Sch. 2 Pt. II**)

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

**C164** S. 15(2) excluded (27.7.1993) by 1993 c. xv, s. 66(5)  
 S. 15(2) restricted (11.11.1996) by S.I. 1996/2714, art. 44(5)

### [<sup>F171</sup>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 <sup>F172</sup>(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 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

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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.]

- [<sup>F173</sup>(4) This section does not apply to—
- (a) the West Yorkshire Combined Authority, or
  - (b) the West Midlands Combined Authority.]

#### Textual Amendments

- F171** 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](#)
- F172** 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](#)
- F173** S. 15A(4) substituted (E.W.) (17.6.2016) by [The West Midlands Combined Authority Order 2016 \(S.I. 2016/653\)](#), art. 1(2), [Sch. 2 para. 10](#)

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

- (1) The Authority for any [<sup>F174</sup>integrated transport area [<sup>F175</sup>, combined authority area][<sup>F176</sup>, combined county authority area] or][<sup>F177</sup>area designated by an order under section 9(1) of this Act][<sup>F177</sup>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 [<sup>F178</sup>as the Minister may direct][<sup>F178</sup>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 [<sup>F179</sup>by the order aforesaid][<sup>F179</sup>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 [<sup>F180</sup>which do not, [<sup>F181</sup>and if section 19(3)(a) of this Act had not passed would not], require authorisation by a road service licence][<sup>F180</sup>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; [<sup>F182</sup>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.]
- [<sup>F183</sup>(2A) In its application to [<sup>F184</sup>each of the authorities within subsection (2B)], [<sup>F185</sup>subsection (1)] has effect as if—
- (a) the words “jointly by the Authority and the Executive” were omitted;

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- (b) “and the Executive” (in the second place) were omitted; <sup>F186</sup>...
- (c) for “their respective” there were substituted “its”] <sup>F187</sup>; and
- (d) the words from “including in particular” to the end of the subsection were omitted.]

<sup>F188</sup>(2B) The authorities referred to in subsection (2A) are—

- (a) the West Yorkshire Combined Authority, and
- (b) the West Midlands Combined Authority.]

<sup>F189</sup>(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 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

- F174** Words in s. 16(1) inserted (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), s. 134(4), [Sch. 4 para. 8](#); [S.I. 2009/107](#), art. 2(1), [Sch. 1 Pt. 1](#)
- F175** Words in s. 16(1) inserted (1.4.2014) by [The Combined Authorities \(Consequential Amendments\) Order 2014 \(S.I. 2014/866\)](#), art. 1, [Sch. para. 9](#)
- F176** Words in s. 16(1) inserted (E.W.) (26.12.2023) by [Levelling Up and Regeneration Act 2023 \(c. 55\)](#), s. 255(2)(c), [Sch. 4 para. 15](#) (with s. 247)
- F177** 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\(a\)\(i\)](#)
- F178** 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](#)
- F179** 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\(a\)\(ii\)](#)
- F180** Words substituted (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 139(2), [Sch. 7 para. 9](#)
- F181** 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](#)
- F182** 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](#)

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- F183** S. 16(2A) inserted (1.4.2014) by [The West Yorkshire Combined Authority Order 2014 \(S.I. 2014/864\)](#), art. 1(2), **Sch. 2 para. 11**
- F184** Words in s. 16(2A) substituted (E.W.) (17.6.2016) by [The West Midlands Combined Authority Order 2016 \(S.I. 2016/653\)](#), art. 1(2), **Sch. 2 para. 11(2)(a)**
- F185** Words in s. 16(2A) substituted (E.W.) (17.6.2016) by [The West Midlands Combined Authority Order 2016 \(S.I. 2016/653\)](#), art. 1(2), **Sch. 2 para. 11(2)(b)**
- F186** Word in s. 16(2A)(b) omitted (26.3.2015 for specified purposes, 1.10.2015 in so far as not already in force) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e), **Sch. 8 para. 9(3)(b)**; S.I. 2015/994, art. 11(o)
- F187** S. 16(2A)(d) and word inserted (26.3.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e), **Sch. 8 para. 9(3)(c)**; S.I. 2015/994, art. 11(o)
- F188** S. 16(2B) inserted (E.W.) (17.6.2016) by [The West Midlands Combined Authority Order 2016 \(S.I. 2016/653\)](#), art. 1(2), **Sch. 2 para. 11(3)**
- F189** 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)**

- C29** S. 16 amended by [Transport Act 1983 \(c. 10, SIF 126\)](#), s. 8(5)
- C30** S. 16(2) excluded (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 60(6)

*Reorganisation of passenger transport in <sup>F190</sup>Integrated  
Transport Areas or] Passenger Transport Areas*

**Textual Amendments**

- F190** Words in s. 20 cross-heading inserted (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), s. 134(4), **Sch. 4 para. 11(b)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1

**<sup>F191</sup>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 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

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- 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
- (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;



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- (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 <sup>M7</sup>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) 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

**F191** S. 17 repealed (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), ss. 57(6), 139(3), Sch. 3 para. 1, [Sch.](#)

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**Marginal Citations**

M7 1960 c. 15.

**18, 19.** ..... <sup>F192</sup>

**Textual Amendments**

**F192** 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.**

<sup>F193</sup>(1) .....

(2) <sup>F194</sup>[<sup>F195</sup>Without prejudice to their [<sup>F196</sup>duty under section 9A(3)] of this Act,] it shall be the special duty of the Executive for [<sup>F197</sup>an integrated transport area [<sup>F198</sup>, a combined authority area] or a [<sup>F199</sup>passenger transport] area ... —

(a) to <sup>F200</sup>... keep under review, the railway passenger services provided [<sup>F201</sup>by passenger service operators (within the meaning of Part I of the Railways Act 1993)] 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 <sup>F202</sup>... [<sup>F203</sup>and

(b) without prejudice to the general powers of the Executive under section 10 of this Act [<sup>F204</sup>, to enter into such agreements with the Strategic Rail Authority or any wholly-owned subsidiary of the Strategic Rail Authority as the Passenger Transport Authority for that area may approve for securing the provision of such railway passenger services as the Passenger Transport Authority][<sup>F205</sup>consider it appropriate to secure to meet any public transport requirements within that area].]

[<sup>F206</sup>(2A) For the purposes of subsection (2)(a) “permitted distance”, in relation to an integrated transport area, a combined authority area [<sup>F207</sup>, a combined county authority area] or a passenger transport area, means the distance of 25 miles from the nearest point on the boundary of that area.]

(3) [<sup>F208</sup>[<sup>F209</sup>The Strategic Rail Authority] 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) [<sup>F210</sup>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 [<sup>F211</sup>the Strategic Rail Authority or a wholly-owned subsidiary of the Strategic Rail Authority in respect of the railway passenger services provided] in pursuance of the agreement.]

(5) [<sup>F210</sup>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) [<sup>F210</sup>If any dispute arises between the Executive and [<sup>F212</sup>the Strategic Rail Authority or any wholly-owned subsidiary of the Strategic Rail Authority] in connection with the provisions of subsection (2) or (3) of this section, either of them may require the

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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 [<sup>F213</sup>the Strategic Rail Authority or the subsidiary] with respect to the dispute as he thinks fit.]

- (7) [<sup>F210</sup>Before giving any directions under subsection (6) of this section to the Executive for a [<sup>F199</sup>passenger transport] area in Scotland or Wales the Minister shall consult with the Secretary of State.]

<sup>F214</sup>(8) . . . . .

### Textual Amendments

- F193** S. 20(1) repealed by [Transport Act 1985 \(c. 67, SIF 126\)](#), ss. 57(3), 139(3), **Sch. 8**
- F194** Words repealed by [Transport Act 1985 \(c. 67, SIF 126\)](#), ss. 57(6), 139(3), **Sch. 3 para. 13(a)(ii)**, Sch. 8
- F195** Words in s. 20(2) repealed (24.7.2005 for E.W.) by [Railways Act 2005 \(c. 14\)](#), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), **Sch. 11 para. 11(2)**); S.I. 2005/1909, art. 2, Sch.
- F196** Words substituted by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 57(6), **Sch. 3 para. 13(a)(i)**
- F197** Words in s. 20(2) inserted (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), s. 134(4), **Sch. 4 para. 9**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F198** Words in s. 20(2) inserted (1.4.2014) by [The Combined Authorities \(Consequential Amendments\) Order 2014 \(S.I. 2014/866\)](#), art. 1, **Sch. para. 10**
- F199** Word substituted by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 57(6), **Sch. 3 para. 2(a)**
- F200** Words repealed by [Transport Act 1985 \(c. 67, SIF 126\)](#), ss. 57(6), 139(3), **Sch. 3 para. 13(a)(iii)**, Sch. 8
- F201** Words in s. 20(2) inserted (1.4.1994) by 1993 c. 43, s. 36(3); S.I. 1994/571, **art. 5** (with art. 7)
- F202** Words in s. 20(2)(a) omitted (26.3.2015 for specified purposes, 1.10.2015 in so far as not already in force) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e), **Sch. 8 para. 4(2)**; S.I. 2015/994, art. 11(o)
- F203** S. 20(2)(b) and preceding word repealed (24.7.2005 for E.W.) by [Railways Act 2005 \(c. 14\)](#), ss. 14(1)(b), 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), **Sch. 11 para. 11(2)**); S.I. 2005/1909, art. 2, Sch.
- F204** Words in s. 20(2)(b) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 5(2)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)
- F205** Words substituted by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 57(6), **Sch. 3 para. 13(a)(iv)**
- F206** S. 20(2A) inserted (26.3.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(2)(e), **Sch. 8 para. 4(3)**; S.I. 2015/994, art. 11(o)
- F207** Words in s. 20(2A) inserted (E.W.) (26.12.2023) by [Levelling Up and Regeneration Act 2023 \(c. 55\)](#), s. 255(2)(c), **Sch. 4 para. 16(3)** (with s. 247)
- F208** S. 20(3) repealed (24.7.2005 for E.W.) by [Railways Act 2005 \(c. 14\)](#), ss. 14(1)(b), 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), **Sch. 11 para. 11(2)**); S.I. 2005/1909, art. 2, Sch.
- F209** Words in s. 20(3) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 5(3)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)
- F210** S. 20(4)-(7) repealed (24.7.2005 for E.W.) by [Railways Act 2005 \(c. 14\)](#), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), **Sch. 11 para. 11(2)**); S.I. 2005/1909, art. 2, Sch.
- F211** Words in s. 20(4) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 5(4)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)
- F212** Words in s. 20(6) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 5(5)(a)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)
- F213** Words in s. 20(6) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 5(5)(b)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

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**F214** 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)**

**C31** S. 20 excluded (24.12.1993) by [1993 c. 43](#), ss. 144(1), 150(1)(j); [S. I. 1993/3237](#), art. 2(1)

**C32** S. 20 extended (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), **s. 57(3)**

**C33** S. 20: transfer of functions (S.) (28.11.2005) by [The Transfer of Rail Functions To The Scottish Ministers Order 2005 \(S.S.I. 2005/598\)](#), arts. 1, 3, **sch. 1** (with art. 5)

**21** ..... **F215**

**Textual Amendments**

**F215** 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. . . **F216** 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. . . **F216** made under this Part of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[**F217**(2A) Subsections (1) and (2) of this section do not apply in relation to orders under section 10C of this Act (but see subsections (7) to (9) of that section).]

(3) ..... **F218**

**Textual Amendments**

**F216** Words repealed by [Transport Act 1985 \(c. 67, SIF 126\)](#), ss. 57(6), 139(3), **Sch. 3 para. 14(a)**, Sch. 8

**F217** [S. 22\(2A\)](#) inserted (E.W.) (18.2.2012) by [Localism Act 2011 \(c. 20\)](#), **ss. 12(3)**, 240(2); [S.I. 2012/411](#), art. 2(e)

**F218** [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 [**F219**an integrated transport area [**F220**, a combined authority area][**F221**, a combined county authority area] or] a [**F222**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 [**F223**or an Authority for [**F224**an integrated transport area [**F225**, a combined authority area][**F226**, a combined county

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authority area] or] a [<sup>F222</sup>passenger transport] area] gives directions under this Part of this Act to give effect to those directions.

- (3) Any direction given by the Minister [<sup>F223</sup>or an Authority for [<sup>F227</sup>an integrated transport area [<sup>F228</sup>, a combined authority area][<sup>F229</sup>, a combined county authority area] or] a [<sup>F222</sup>passenger transport] area] under this Part of this Act shall be in writing.

#### Textual Amendments

- F219** Words in s. 23(1) inserted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 10**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F220** Words in s. 23(1) inserted (1.4.2014) by The Combined Authorities (Consequential Amendments) Order 2014 (S.I. 2014/866), art. 1, **Sch. para. 11**
- F221** Words in s. 23(1) inserted (E.W.) (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 17(2)** (with s. 247)
- F222** 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)**
- F223** 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**
- F224** Words in s. 23(2) inserted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 10**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F225** Words in s. 23(2) inserted (1.4.2014) by The Combined Authorities (Consequential Amendments) Order 2014 (S.I. 2014/866), art. 1, **Sch. para. 11**
- F226** Words in s. 23(2) inserted (E.W.) (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 17(3)** (with s. 247)
- F227** Words in s. 23(3) inserted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 10**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F228** Words in s. 23(3) inserted (1.4.2014) by The Combined Authorities (Consequential Amendments) Order 2014 (S.I. 2014/866), art. 1, **Sch. para. 11**
- F229** Words in s. 23(3) inserted (E.W.) (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 17(4)** (with s. 247)

#### [<sup>F230</sup>23A Interpretation of certain provisions of this Part relating to railways.

- (1) For the purposes of sections 10, 15 and 20 of this Act—
- “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
  - “operator” has the meaning given in section 6(2) of that Act.

[ For the purposes of section 10, “railway” has the meaning given in section 67(1) of <sup>F231</sup>(1A) the Transport and Works Act 1992.]

- (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 [<sup>F232</sup>section 1159 of the Companies Act 2006].]

#### Textual Amendments

- F230** S. 23A inserted (1.4.1994) by 1993 c. 43, s. 36(3); S.I. 1994/571, art. 5
- F231** S. 23A(1A) inserted (26.3.2015 for specified purposes, 1.10.2015 in so far as not already in force) by Deregulation Act 2015 (c. 20), s. 115(2)(e), **Sch. 8 para. 5**; S.I. 2015/994, art. 11(o)

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**F232** Words in s. 23A(2) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 20** (with art. 10)

## PART III

### BUS AND FERRY SERVICES

#### *National Bus Company and Scottish Transport Group*

**F233F234** **24 Establishment and general duties of Bus Company and Scottish Group.** **E+W**  
**+S**

#### **Extent Information**

**E8** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

#### **Textual Amendments**

**F233** S. 24 repealed (S.) (7.6.2002) by [S.S.I. 2002/263](#), art. 5(2), Sch.

**F234** S. 24 repealed (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), ss. 66(6)(b), 134(4), **Sch. 7 Pt. 3**; [S.I. 2009/107](#), art. 2(1), Sch. 1 Pt. 1

**24 Establishment and general duties of Bus Company and Scottish Group.** **N.I.**

- (1) There shall be constituted in accordance with Schedule 1 to this Act—
- (a) a public authority to be called the National Bus Company (hereafter in this Act referred to as “the Bus Company”); and
  - (b) a public authority to be called the Scottish Transport Group (hereafter in this Act referred to as “the Scottish Group”).
- (2) [Where any area has been designated under section 9(1) of this Act, it shall be the duty—
- (a) of the Executive for that area; and
  - (b) of the Bus Company, or of the Scottish Group, or of both that Company and that Group (as may be appropriate having regard to where that area is situated), either acting directly, or acting indirectly through subsidiaries of that Company or Group,

to co-operate with one another in the re-organisation of bus services within, to and from that area, and for that purpose to enter into agreements as to the services to be provided by the Company or Group or their subsidiaries in or in connection with that area, and as to the terms on which those services are to be provided; and any such agreement may include arrangements for the transfer between the parties thereto in such manner and on such terms (including payments by one of the parties to the other) as may be provided for by the agreement of specified property, rights or liabilities.

- (3) It shall be the duty respectively—

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- (a) ..... F983  
(b) of the Bus Company and the Railways Board;  
(c) of the Scottish Group and the Railways Board;  
(d) of the Bus Company and the Scottish Group,

either directly, or indirectly through subsidiaries of theirs, to co-operate with one another in the exercise and performance of their respective functions for the purpose of co-ordinating the passenger transport services provided by, or by subsidiaries of, those authorities respectively and to afford to one another such information as to proposed changes in their services as may be reasonably required for that purpose.]

- (4) [Subsections (2) and (3) of this section shall not be construed as imposing, either directly or indirectly, on any of the authorities mentioned therein any form of duty or liability enforceable by proceedings before any court to which that authority would not otherwise be subject.]

**Extent Information**

**E29** This version of this provision extends to Northern Ireland only; a separate version has been created for Great Britain only.

**Textual Amendments**

**F983** S. 24(3)(a) repealed by [Transport \(London\) Act 1969 \(c. 35, SIF 126\)](#), [Sch. 6](#)

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

**C165** S. 24(2)(3) excluded by [Transport Act 1980 \(c. 34\)](#), [s. 15\(2\)\(a\)](#)

[<sup>F235</sup> **25 General powers of Bus Company.**

Subject and without prejudice to the provisions of, or of any enactment applied by, sections 47 to 52 of this Act, the Bus Company shall have power—

- (a) to carry passengers by road, whether in or outside England and Wales;  
(b) to carry passengers by vessel or hovercraft where that carriage forms part of a passenger transport service which includes the carriage of passengers by road by the Company or a subsidiary of theirs or by some other person, whether or not as agent for the Company, in pursuance of an agreement with the Company;  
(c) where any vehicle or vessel is used for the carriage of passengers in pursuance of paragraph (a) or (b) of this section, to carry also luggage or other goods in that vehicle or a trailer drawn thereby or in that vessel;  
(d) to store goods which have been or are to be carried by the Company in pursuance of paragraph (c) of this section or by a subsidiary of the Company, 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;  
(e) to let passenger vehicles for hire with or without trailers for the carriage of goods;  
(f) to carry on business as travel agents;  
(g) to enter into and carry out agreements with any person engaged in the provision of transport services, by whatever form of transport, for co-ordinating the activities of that person with those of the Bus Company, and

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in particular for the provision of combined services for the through carriage of passengers or goods, whether by the same or partly by one and partly by another form of transport, for the quoting of through rates and for the pooling of receipts or expenses;

- (h) to join with any person engaged as mentioned in paragraph (g) of this section in forming, promoting and assisting a company for carrying on any activities in connection with such combined services as are so mentioned which the Bus Company or that person have power to carry on;
- (j) with the consent of the Minister, to carry on any activities which the Company would not apart from this paragraph have power to carry on but which a subsidiary of the Company was carrying on immediately before it became such a subsidiary.]

#### Textual Amendments

**F235** S. 25 repealed (G.B.) (1. 4. 1991) by [S.I. 1991/510](#), [reg. 5](#), Sch.

#### [<sup>F236</sup>26 General powers of Scottish Group.

- (1) Subject and without prejudice to the provisions of, or of any enactment applied by, sections 47 to 52 of this Act, the Scottish Group shall have power—
  - (a) to carry passengers by road, subway or water or by hovercraft, whether in or outside Scotland;
  - (b) to carry goods by road or water or by hovercraft within, or to or from any place situated within, the [<sup>F237</sup>Highland region, the islands areas of Orkney, Shetland and the Western Isles, the Argyll district and in the Cunninghame district the former burgh of Millport and the former districts of Arran and Cumbrae];
  - (c) where any vehicle or vessel is used for the carriage of passengers in pursuance of paragraph (a) of this subsection, to carry also luggage and other goods in that vehicle or a trailer drawn thereby or in that vessel;
  - (d) to consign goods on behalf of other persons;
  - (e) to store goods which have been or are to be carried by the Group or by a subsidiary of theirs and—
    - (i) so far as any premises provided by the Group 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;
    - (ii) with the consent of the Secretary of State to provide such facilities at any other premises;
  - (f) to carry on business as travel agents;
  - (g) to enter into and carry out agreements with any person engaged in the provision of transport services, by whatever form of transport, for co-ordinating the activities of that person with those of the Group, and in particular for the provision of combined services for the through carriage of passengers or goods, whether by the same or partly by one and partly by another form of transport, for the quoting of through rates, and for the pooling of receipts or expenses;
  - (h) to join with any person engaged as mentioned in paragraph (g) of this subsection in forming, promoting and assisting a company for carrying on any activities in connection with such combined services as are so mentioned which the Group or that person have power to carry on;



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- (j) either alone or together with any other person, to provide maintain and operate depots for the sorting of goods, with facilities for the reception, storage, weighing and handling of goods and for compliance with the requirements of the enactments relating to customs and excise;
  - (k) to let for hire any vehicle, vessel or other means of transport;
  - (l) to operate harbours;
  - (m) with the consent of the Secretary of State, to carry on any activities which the Group would not apart from this paragraph have power to carry on but which a subsidiary of the Group was carrying on immediately before it became such a subsidiary.
- (2) The Scottish Group shall not be regarded as common carriers in respect of any of their activities concerned with the carriage of goods.]

#### Textual Amendments

**F236** S. 26 repealed (S.) (7.6.2002) by [S.S.I. 2002/263](#), art. 5(2), [Sch.](#)

**F237** Words substituted by [Local Government \(Scotland\) Act 1973](#) (c. 65, SIF 81:2), [Sch. 18 para. 13](#)

#### **[<sup>F238</sup>27 Financial provisions with respect to Bus Company and Scottish Group.**

- (1) Subject and without prejudice to the provisions of section 41 of this Act, the following provisions of the Act of 1962, namely—
- (a) section 18 (financial duty of Boards);
  - (b) section 19 (borrowing powers of Boards);
  - (c) section 20 (loans out of National Loans Fund);
  - (d) section 21 (Treasury guarantees);
  - (e) section 24 (accounts),
- shall apply [<sup>F239</sup>to the Bus Company and] to the Scottish Group as they apply to the Boards, except that any reference in those sections to the Minister shall, in relation to the Scottish Group, be construed as a reference to the Secretary of State.
- (2) [<sup>F240</sup>The Bus Company and] the Scottish Group shall each assume a commencing capital debt in accordance with the provisions of Schedule 2 to this Act.
- (3) The aggregate amount outstanding in respect of—
- (a) the principal of any money borrowed by [<sup>F241</sup>the Bus Company or, as the case may be,] the Scottish Group, under section 19 of the Act of 1962, and
  - (b) the commencing capital debt of that [<sup>F241</sup>Company or, as the case may be,]Group,
- shall not exceed—
- [ for the Bus Company, [<sup>F243</sup>the limit mentioned in subsection (4) of this
  - <sup>F242</sup>(i) section];]
  - (ii) for the Scottish Group, £50 million.
- <sup>F244</sup>[ The limit referred to in subsection (3)(i) of this section is £250 million or such greater
- <sup>F245</sup>(4) sum not exceeding £275 million as the Secretary of State may specify by order.
- (5) No order shall be made under subsection (4) of this section unless a draft of the order has been laid before and approved by resolution of the House of Commons.]]]

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### Textual Amendments

- F238** S. 27 repealed (S.) (7.6.2002) by [S.S.I. 2002/263, art. 5\(2\), Sch.](#)
- F239** Words in s. 27(1) repealed (G.B.) (1. 4. 1991) by [S.I. 1991/510, reg. 5, Sch.](#)
- F240** Words in s. 27(2) repealed (G.B.) (1. 4. 1991) by [S.I. 1991/510, reg. 5, Sch.](#)
- F241** Words in s. 27(3) repealed (G.B.) (1. 4. 1991) by [S.I. 1991/510, reg. 5, Sch.](#)
- F242** S. 27(3)(i) repealed (G.B.) (1. 4. 1991) by [S.I. 1991/510, reg. 5, Sch.](#)
- F243** Words substituted by [Transport \(Finance\) Act 1982 \(c. 6, SIF 102\), s. 4\(2\)](#)
- F244** S. 27(4)(5) repealed (G.B.) (1. 4. 1991) by [S.I. 1991/510, reg. 5, Sch.](#)
- F245** S. 27(4)(5) added by [Transport \(Finance\) Act 1982 \(c. 6, SIF 102\), s. 4\(3\)](#)

## [<sup>F246</sup>28 **Transfer to Bus Company or Scottish Group of certain securities, rights and liabilities.**

[ On the appointed day for the purposes of this subsection—

- <sup>F247</sup>(1) (a) the securities of the bodies listed in Schedule 7 to this Act, so far as beneficially owned on that day by the Holding Company or by any wholly-owned subsidiary of that Company, and
- (b) any rights or liabilities on that day of that Company or subsidiary regarding the securities of any of those bodies, and
- (c) the right to any money owed on that day to that Company or subsidiary by any of those bodies, and
- (d) the liability represented by any money owed on that day by that Company or subsidiary to any of those bodies, and
- (e) any rights and liabilities on that day of that Company in connection with Tilling Association Limited, and
- (f) any rights and liabilities of the Holding Company under any agreement such as is mentioned in paragraph 6 of Schedule 5 to the Act of 1962 so far as subsisting in England or Wales,

shall, subject to subsection (3) of this section, be transferred to, and by virtue of this Act vest in, the Bus Company.]

(2) On the appointed day for the purposes of this subsection—

- (a) the securities of the following bodies, namely—
- (i) David MacBrayne Limited; and
- (ii) Scottish Bus Group Limited,
- so far as beneficially owned on that day by the Holding Company or by any wholly-owned subsidiary of that Company, and
- (b) the securities of the following body, namely, the Caledonian Steam Packet Company Limited, so far as beneficially owned on that day by the Railways Board, and
- (c) any rights or liabilities on that day of the Holding Company or that subsidiary thereof or, as the case may be, of that Board regarding the securities of any of those bodies, and
- (d) the right to any money owed on that day to the Holding Company or subsidiary or, as the case may be, to that Board by any of those bodies, and
- (e) the liability represented by any money owed on that day by the Holding Company or subsidiary or, as the case may be, by that Board to any of those bodies, and

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- (f) any rights and liabilities of the Holding Company under any agreement such as is mentioned in paragraph 6 of Schedule 5 to the Act of 1962 so far as subsisting in Scotland,
- shall, subject to subsection (3) of this section, be transferred to, and by virtue of this Act vest in, the Scottish Group.
- (3) Where any of the securities referred to in subsection [F248(1) or] (2) of this section are beneficially owned as mentioned in that subsection but held by a nominee, that subsection shall operate only to transfer the beneficial interest in the securities; [F248 and paragraphs (c) and (d) of the said subsection (1) and] paragraphs (d) and (e) of the said subsection (2) shall not apply to money owed in the ordinary course of trading.
- (4) [F249] The Minister may by order made not later than the appointed day for the purposes of subsection (1) of this section, and] the Minister and the Secretary of State acting jointly may by order made not later than the appointed day for the purposes of subsection (2) of this section, add to the said Schedule 7 or, as the case may be, to paragraph (a) or (b) of the said subsection (2), any body not for the time being listed therein if he is, or, as the case may be, they are, satisfied—
- (a) that the activities of the body are similar to those of the bodies for the time being so listed, and
- (b) that the Holding Company or a wholly-owned subsidiary thereof or, as the case may be, the Railways Board are for the time being the beneficial owners of any securities of that body.
- (5) The rights and liabilities of the Holding Company under such agreements for the rendering of personal services by persons who immediately before the appointed day for the purposes of subsection (1) or, as the case may be, subsection (2) of this section, are employed by the Holding Company as may be determined in accordance with arrangements agreed [F250] between the Holding Company and the Bus Company or, as the case may be, between the Holding Company and the Scottish Group, or, in default of such agreement, in accordance with such arrangements as the Minister or, as the case may be, the Minister and the Secretary of State acting jointly may direct, shall on that day be transferred to, and by virtue of this Act vest in, the Bus Company or, as the case may be, the Scottish Group.
- (6) Paragraph 2(3) and (4) of Schedule 4 to this Act shall apply to any transfer under subsection (5) of this section, and paragraphs 7 to 13 of that Schedule shall apply to any transfer under that subsection or under subsection [F251(1) or] (2) of this section; and in the application of any provision of that Schedule by virtue of this subsection to a transfer under the said subsection (2) any reference in that provision to the Minister shall be construed as a reference to the Minister and the Secretary of State acting jointly.]]

#### Textual Amendments

**F246** S. 28 repealed (S.) (7.6.2002) by [S.S.I. 2002/263](#), art. 5(2), [Sch.](#)

**F247** S. 28(1) repealed (G.B.) (1. 4. 1991) by [S.I. 1991/510](#), reg. 5, [Sch.](#)

**F248** Words in s. 28(3) repealed (G.B.) (1. 4. 1991) by [S.I. 1991/510](#), reg. 5, [Sch.](#)

**F249** Words in s. 28(4) repealed (G.B.) (1. 4. 1991) by [S.I. 1991/510](#), reg. 5, [Sch.](#)

**F250** Words in s. 28(5) repealed (G.B.) (1. 4. 1991) by [S.I. 1991/510](#), reg. 5, [Sch.](#)

**F251** Words in s. 28(6) repealed (G.B.) (1. 4. 1991) by [S.I. 1991/510](#), reg. 5, [Sch.](#)

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**[<sup>F252</sup>29 Transfer of certain property, rights and liabilities between Railways Board and Bus Company or Scottish Group.**

- (1) Before the appointed day for the purposes of the relevant transfer referred to in subsection (2) of this section, the Railways Board shall take steps to the satisfaction of the Minister to separate from the remainder of their undertaking the parts thereof concerned respectively—
- (a) with the provision of road passenger transport services within or to and from the city of Sheffield, the county borough of Halifax, the county borough of Huddersfield or the borough of Todmorden; and
  - (b) with the provision of shipping services in Scotland by the Caledonian Steam Packet Company Limited, and with the provision by the Board of the ferry service to and from Kyle of Lochalsh and Kyleakin;
- and the Board shall from time to time furnish the Minister with such information as he may require with respect to the property and interests which the Board propose to treat as included in each respectively of those parts of their undertaking, and the Minister may give directions to the Board as to the property, rights and liabilities to be so treated.
- (2) Subject to subsection (3) of this section, on the relevant appointed day for the purposes of this subsection there shall be transferred to, and by virtue of this Act vest in, the [<sup>F253</sup>Bus Company and]the Scottish Group [<sup>F253</sup>respectively], all the property, rights and liabilities comprised in the part of the Railways Board's undertaking referred to in paragraph (a) or, as the case may be, paragraph (b) of subsection (1) of this section.
- (3) Schedule 4 to this Act shall apply to any transfer under subsection (2) of this section, and that subsection shall have effect subject to the provisions of that Schedule; and in the application of any provision of that Schedule to a transfer affecting the Scottish Group, any reference in that provision to the Minister shall be construed as a reference to the Minister and the Secretary of State acting jointly.
- [ Notwithstanding anything in section 4 of the Act of 1962, as from the appointed day for
- <sup>F254</sup>(4) the purposes of the transfer under subsection (2) of this section to the Bus Company the Railways Board shall not have power to carry passengers by road except as permitted by subsection (1)(a)(iii) of the said section 4.]
- (5) Subject to subsection (6) of this section—
- (a) the Scottish Group and the Railways Board acting jointly may as occasion seems to them to require it make schemes for the transfer from one to another of the following bodies, namely, that Group, that Board and any wholly-owned subsidiary of that Group or Board, of any specified property, rights or liabilities, or of all property, rights or liabilities comprised in a specified part of their undertaking, being property, rights and liabilities held or subsisting for the purposes of or in connection with, or, as the case may be, a part of their undertaking concerned with, a transport service by water (including such a service by means of a hovercraft) which carries passengers and operates regularly between two or more points at least one of which is in Scotland;
  - (b) the Minister and the Secretary of State acting jointly may by order make any such provisions as aforesaid with respect to any of the bodies aforesaid.
- (6) Subsections (3) to (7) of section 7 of this Act shall apply to any scheme, and subsections (3) to (6) of section 8 of this Act shall apply to any order, under subsection (5) of this section as they apply to a scheme under [<sup>F255</sup>subsection (1)(b) of the said section 7 or, as the case may be, to an order under subsection (1)(b) of the said

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section 8 making any such provision as is mentioned in the said section 7(1)(b), but as if for the reference in subsection (6)(a) of the said section 8 to the Railways Board there were substituted a reference to the Scottish Group and the Railways Board].]

**Textual Amendments**

- F252** S. 29 repealed (S.) (7.6.2002) by [S.S.I. 2002/263, art. 5\(2\)](#), [Sch.](#)
- F253** In s. 29(2) by [S.I. 1991/510, reg. 5](#), [Sch](#) it is provided that the words "Bus Company and" and the word "respectively" are repealed (G.B.) (1. 4. 1991).
- F254** S. 29(4) repealed (G.B.) by [Transport Act 1985 \(c. 67, SIF 126\), s. 139\(3\)](#), [Sch. 8](#); and by [S.I. 1991/510, reg. 5](#), [Sch.](#) the words in s. 29(4) from "as from" to "Bus Company" are expressed to be repealed (G.B.) (1. 4. 1991).
- F255** Words substituted by [Transport Act 1980 \(c. 34, SIF 126\)](#), [Sch. 7 para. 3](#)

*Relaxation of control over certain bus services*

**30** ..... **F256**

**Textual Amendments**

- F256** S. 30 repealed by [Transport Act 1980 \(c. 34, SIF 126\)](#), [Sch. 9 Pt. I](#)

**31 Abolition of special control over bus services provided by local authorities outside their areas.**

- (1) So much of subsection (1) of section 101 of the <sup>M8</sup>Road Traffic Act 1930 as requires a local authority to obtain the consent of the appropriate traffic commissioners before running public service vehicles outside the district of the authority shall cease to have effect, and accordingly—
  - (a) in that subsection for the words from “on any road within their district” to the end shall be substituted the words “ on any road inside or outside their district ”; and
  - (b) section 102 of that Act (which contains procedural provisions with respect to consents under subsection (1) of the said section 101) shall cease to have effect.
- (2) Any provision in a local Act or in any order under Part VI of the <sup>M9</sup>Local Government Act 1933, Part VI of the <sup>M10</sup>Local Government (Scotland) Act 1947, or Part II of the <sup>M11</sup>Local Government Act 1958—
  - (a) imposing any requirement corresponding to that which ceases to have effect by virtue of the foregoing subsection; or
  - (b) in relation to any such requirement, applying or making provision corresponding to the said section 102,together with section 38(6) of the said Act of 1958 (which, in certain cases, requires orders under the said Part II to contain such provisions as aforesaid) shall cease to have effect.

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Marginal Citations	
<b>M8</b>	1930 c. 43.
<b>M9</b>	1933 c. 51.
<b>M10</b>	1947 c. 43.
<b>M11</b>	1958 c. 55.

*Assistance for bus and ferry services*

<sup>F257</sup>**32 New bus grants.**

.....

Textual Amendments	
<b>F257</b>	S. 32 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), <b>Sch. 1 Pt. 14</b>

- [<sup>F258</sup>**33** (1) ..... <sup>F259</sup>
- (2) ..... <sup>F260</sup>

(3) So much of subsection (9) of the said section 92 as enables the Parliament of Northern Ireland to make laws for purposes similar to the purposes of the provisions of that section shall apply to those provisions as amended by subsection (1) of this section.]

Textual Amendments	
<b>F258</b>	S. 33 repealed (1.2.2001 (E.) and 14.8.2002 (W.) and otherwise <i>prosp.</i> ) by 2000 c. 38, ss. 274, 275(1), <b>Sch. 31 Pt. II</b> ; S.I. 2001/57, art. 3, <b>Sch. 3 Pt. I</b> (subject to savings in <b>Sch. 3 Pt. II</b> ); S.I. 2002/2024, <b>art. 2</b>
<b>F259</b>	S. 33(1) omitted by virtue of Finance Act 1974 (c. 30, SIF 126), <b>s. 54(1)</b>
<b>F260</b>	S. 33(2) repealed by Transport London Act 1969 (c. 35, SIF 126), <b>Sch. 6</b>
Modifications etc. (not altering text)	
<b>C34</b>	The text of s. 33(3), which is spent, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**34 Assistance for rural bus or ferry services. E+W**

(1) Any of the following councils, namely the council or any county, . . . <sup>F261</sup> or [<sup>F262</sup>district] in England or Wales, any county, town or district council in Scotland, and the Council of the Isles of Scilly, or any two or more of those councils acting jointly, may, on such conditions, if any, as they think fit, afford assistance to any other person, by way of grant, loan or both, for the purpose of securing the provision, improvement or continuance of any . . . <sup>F263</sup> ferry service if in the opinion of the council or councils in question that service is or will be for the benefit of persons residing in rural areas.

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[<sup>F264</sup>(1A) The Council of the Isles of Scilly may, on such conditions, if any, as they think fit, afford assistance to any other person, by way of grant, loan or both, for the purpose of securing the provision, improvement or continuance of any bus service if in the opinion of that Council that service is or will be for the benefit of persons residing in rural areas.]

(2) ..... <sup>F265</sup>

#### Extent Information

**E9** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

**F261** Words repealed by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 30](#)

**F262** Word substituted by virtue of [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [s. 179\(3\)](#)

**F263** Words repealed by [Transport Act 1985 \(c. 67, SIF 126\)](#), [s. 139\(2\)\(3\)](#), [Sch. 7 para. 10\(a\)](#), [Sch. 8](#)

**F264** S. 34(1A) inserted by [Transport Act 1985 \(c. 67, SIF 126\)](#), [s. 139\(2\)](#), [Sch. 7 para. 10\(b\)](#)

**F265** S. 34(2)(3) repealed by [Local Government Act 1974 \(c. 7\)](#), [Sch. 1 para. 7](#), [Sch. 8](#)

### [<sup>F984</sup>34 Assistance for rural bus or ferry service. **S**

(1) A regional, islands or district council or any two or more of those councils acting jointly, may, on such conditions, if any, as they think fit, afford assistance to any other person, by way of grant, loan or both, for the purpose of securing the provision, improvement or continuance of any bus service if in the opinion of the council or councils in question that service is or will be for the benefit of persons residing in rural areas.

(2) A [<sup>F985</sup>council or two or more councils acting jointly], may, on such conditions, if any, as they think fit, afford assistance to any other person, by way of grant, loan or both, for the purpose of securing the provision, improvement or continuance of any ferry service if in the opinion of the council or councils in question that service is or will be for the benefit of persons residing in rural areas.

(3) The Secretary of State may, with the approval of the Treasury, make grants in such cases and subject to such conditions as he thinks fit to [<sup>F986</sup>a council] in respect of expenditure incurred by that council in making grants under subsection (1) or (2) above, and any grant under this subsection in respect of expenditure in connection with a bus service shall be of an amount equal to half the expenditure in respect of which the grant is made.

(4) The Secretary of State may, with the approval of the Treasury make grants in such cases and subject to such conditions as he thinks fit to [<sup>F987</sup>a council] in respect of expenditure incurred by [<sup>F987</sup>that] council in providing a ferry service which in the opinion of the council is or will be for the benefit of persons residing in rural areas.]

[<sup>F988</sup>(5) In this section “council” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.]

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#### Extent Information

**E30** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F984** S. 34 substituted by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF: 81:2\)](#), [Sch. 18 para. 14](#)
- F985** Words in s. 34(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 80\(6\)\(a\)](#); S.I. 1996/323, [art. 4\(1\)\(b\)\(c\)](#)
- F986** Words in s. 34(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 80\(6\)\(b\)](#); S.I. 1996/323, [art. 4\(1\)\(b\)\(c\)](#)
- F987** Words in s. 34(4) substituted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 80\(6\)\(c\)\(i\)\(ii\)](#); S.I. 1996/323, [art. 4\(1\)\(b\)\(c\)](#)
- F988** S. 34(5) inserted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 80\(6\)\(d\)](#); S.I. 1996/323, [art. 4\(1\)\(b\)\(c\)](#)

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

**C166** S. 34(2) amended by [Local Government \(Scotland\) Act 1975 \(c. 30\)](#)

### *Further provision relating to public service vehicles*

- 35** (1) ..... **F266**
- (3) ..... **F267**

#### Textual Amendments

- F266** S. 35(1)(2) repealed by [Transport Act 1980 \(c. 34, SIF 126\)](#), [Sch. 9 Pt. I](#)
- F267** S. 35(3) repealed by [Public Passenger Vehicles Act 1981 \(c. 14, SIF 107:1\)](#), [Sch. 8](#)

- 36** ..... **F268**

#### Textual Amendments

**F268** S. 36 repealed by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 139(3), [Sch. 8](#)

### **37 Power for local authorities to acquire or dispose of public service vehicle undertakings.**

- (1) Without prejudice to any powers apart from this section, any local authority within the meaning of Part V of the Road Traffic Act 1930 who, under powers conferred by section 101(1) of that Act or by any local Act or order, are running public service vehicles may, . . . <sup>F269</sup>
- (a) acquire by agreement the whole or any part of a public service vehicle undertaking carried on by any other person; or



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- (b) dispose of the whole or any part of the authority’s public service vehicle undertaking to any other person, whether by purchase or sale, by lease, or by exchange or, in Scotland, excambion.

(2) ..... F270

**Textual Amendments**

**F269** 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](#)

**F270** S. 37(2) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), [Sch. 29](#) and [Local Government Act 1974 \(c. 7, SIF 81:1\)](#), [Sch. 8](#)

**PART IV**

FURTHER PROVISIONS AS TO BOARDS, NEW AUTHORITIES AND TRANSPORT SERVICES

*Railways Board*

**38 Composition of Railways Board and removal of requirement for regional boards.**

- (1) In section 1(3) of the Act of 1962 (which relates to the composition of the Railways Board) for the words “shall consist of a chairman, a vice chairman, or two vice chairmen, and not more than sixteen nor less than ten other members” there shall be substituted the words “ shall consist of a chairman and not more than fifteen nor less than nine other members ”.
- (2) The Minister may from time to time, if after consultation with the chairman of the said Board he thinks fit so to do, appoint one or more members of the Board to be deputy chairman or deputy chairmen, or vice chairman or vice chairmen, of the Board.
- (3) A person appointed as deputy chairman or vice chairman of the said Board shall not by reason only of ceasing to be deputy chairman or vice chairman cease to be a member of the Board.

(4) ..... F271

**Textual Amendments**

**F271** S. 38(4) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. Pt. VI](#)

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

**C35** The text of ss. 38(1), 41(8)(9), 44(4), 46(5), 50(10), 51(3), 52(4), 94(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**C36** The “said Board” means the Railways Board

**39** ..... F272

*Status: Point in time view as at 07/05/2024.*

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**Textual Amendments**  
F272 S. 39 repealed by [Railways Act 1974 \(c. 48\), s. 3\(7\)](#)

F273 **40** .....

**Textual Amendments**  
F273 S. 40 repealed (1.4.1994) by 1993 c. 43, s. 150(1)(o), [Sch.14](#); S.I. 1994/571, [art. 5](#)

*Additional financial provisions with respect to Boards and new authorities*

**41 Financial provisions as to Boards and new authorities.**

- (1) This section applies to the following authorities, namely, the Boards and the new authorities.
- (2) It shall be the duty of each of the authorities to whom this section applies so to perform their functions under the Act of 1962 or this Act as to secure that combined revenues of the authority and of their subsidiaries taken together are not less than sufficient to meet their combined charges properly chargeable to revenue account, taking one year with another.
- (3) Each of the authorities to whom this section applies shall secure that their subsidiaries charge to revenue account in every year all charges which are proper to be made to revenue account, including, in particular, proper provision for the depreciation or renewal of assets.
- (4) Notwithstanding anything in paragraph (a) of the proviso to section 18(4) of the Act of 1962, the purposes for which the moneys comprised in the general reserve of any of the authorities to whom this section applies may be applied shall include the purposes of any subsidiary of theirs.
- (5) Subsection (1) of section 18 of the Act of 1962 shall cease to have effect, and references to that subsection in the Act of 1962 shall be construed as references to subsection (2) of this section.
- (6) ..... F274
- (7) ..... F275
- (8) In section 22 of the Act of 1962 as amended by the Transport Finances Act 1966, subsections (2) and (3) (which relate to deficits on revenue account of the Railways Board or the London Board) and subsection (6) (which temporarily relieves those Boards of the obligation to establish a general reserve) shall cease to have effect.
- F276 (9) .....
- (10) For the purposes of subsections (2) and (3) of this section, the provisions of section 51(5) of this Act shall be disregarded.

*Status: Point in time view as at 07/05/2024.*

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### Textual Amendments

**F274** S. 41(6) repealed by [Transport London Act 1969 \(c. 35, SIF 126\)](#), [Sch. 6](#)

**F275** S. 41(7) repealed by [Transport Act 1981 \(c. 35, SIF 126\)](#), [Sch. 12](#)

**F276** S. 41(9) omitted (01.10.1991) by virtue of [S.I. 1991/1997, reg. 2](#), [Sch.](#), para. 21(3).

### Modifications etc. (not altering text)

**C37** S. 41(2) excluded (24.12.1993) by [1993 c. 43, ss. 144\(1\)\(a\), 150\(1\)\(j\)](#); [S.I. 1993/3237, art. 2\(1\)](#)

**C38** The text of ss. 38(1), 41(8), 44(4), 46(5), 50(10), 51(3), 52(4), 94(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 42 Additional financial provisions as to Railways Board.

- (1) This section applies to the Railways Board.
- (2) On 1st January 1969 there shall be extinguished—
  - (a) the part of the commencing capital debt of the Board under section 39 of the Act of 1962 which under section 40 of that Act constitutes the suspended debt of the Board on that date; and
  - (b) subject to subsection (3) of this section, such further part of the commencing capital debt of the Board as is required to be extinguished in order to reduce the commencing capital debt of the Board outstanding on that date to £300 million.

<sup>F277</sup>(3) .....

<sup>F278</sup>(4) .....

<sup>F278</sup>(5) .....

- (6) As from 1st January 1969, the aggregate amount outstanding in respect of—
  - (a) the principal of any money borrowed by the Board under section 19 of the Act of 1962; and

<sup>F279</sup>(b) .....

[<sup>F280</sup>(c) the principal of any money borrowed by wholly owned subsidiaries of the Board under that section in its application by virtue of section 110 of the Railways Act 1993.]

[<sup>F281</sup>shall not exceed £3,000 million or such greater sum not exceeding £5,000 million as the Secretary of State] may from time to time by order specify; but no order shall be made under this subsection unless a draft thereof has been approved by a resolution of the Commons House of Parliament.

- (7) The Board shall as soon as practicable after 1st January 1969 adjust their accounts so that the total net book value of their capital assets does not exceed the aggregate of the amount specified in subsection (2)(b) of this section and their other liabilities.
- (8) If in any accounting year of the Board there is an excess of the revenue of the Board over the total sums properly chargeable by them to revenue, the Minister may, with the approval of the Treasury, require that excess, so far as it appears to him, after consultation with the Board, to be surplus to the requirements of the Board, to be paid over to the Minister, who shall pay it into the Consolidated Fund.

*Status: Point in time view as at 07/05/2024.*

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**Textual Amendments**

- F277** S. 42(3) repealed (6.1.1994) by 1993 c. 43, ss. 150(1)(o), 152(1)(3), Sch. 12 para. 6(2), **Sch.14**; S.I. 1993/3237 art. 2(2)
- F278** S. 42(4)(5) repealed (6.1.1994) by 1993 c. 43, ss. 150(1)(o), 152(3), **Sch.14**; S.I. 1993/3237, **art. 2(2)**
- F279** S. 42(6)(b) repealed (6.1.1994) by 1993 c. 43, ss. 111, 150(1)(o), 152(3), **Sch.14**; S.I. 1993/3237, **art. 2(2)**
- F280** S. 42(6)(c) inserted (6.1.1994) by 1993 c. 43, **s.111**; S.I. 1993/3237, **art. 2(2)**
- F281** Words in s. 42(6) substituted by **British Railways Board (Finance) Act 1991 (c. 63, SIF 102), s. 1(1)**.

**43 Additional financial provisions as to Waterways Board.**

(1) This section applies to the Waterways Board.

<sup>F282</sup>(2) .....

[<sup>F283</sup>(2A) The Scottish Ministers may from time to time make grants to the Board.]

(3) On 1st January 1969—

(a) without prejudice to any further adjustment under section 53(5) of this Act, there shall be extinguished such part of the commencing capital debt of the Board under section 39 of the Act of 1962 as is required to be extinguished in order to reduce the commencing capital debt of the Board outstanding on that date to £3,750,000;

<sup>F284</sup>(b) .....

<sup>F285</sup>(4) .....

<sup>F286</sup>(5) .....

[<sup>F287</sup>(6) [<sup>F288</sup>If in any accounting year of the Board there is an excess of the revenue of the Board over the total sums properly chargeable by them to revenue,] the Scottish Ministers may require that excess, so far as it appears to them, after consultation with the Board, to be surplus to the requirements of the Board, to be paid over to the Scottish Ministers.]

**Textual Amendments**

- F282** S. 43(2) omitted (2.7.2012) by virtue of **The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), Sch. 2 para. 31(2)** (with arts. 4-6)
- F283** S. 43(2A) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(2)** (with art. 4)
- F284** S. 43(3)(b) and word “and” preceding it repealed by **Transport (Financial Provisions) Act 1977 (c. 20, SIF 126), s. 3(2)(b)**
- F285** S. 43(4) repealed by **Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. VI**
- F286** S. 43(5) omitted (2.7.2012) by virtue of **The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), Sch. 2 para. 31(2)** (with arts. 4-6)
- F287** S. 43(6) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(4)** (with art. 4)
- F288** Words in s. 43(6) substituted (2.7.2012) by **The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), Sch. 2 para. 31(3)** (with arts. 4-6)

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[<sup>F289</sup> **43A.Grants to Canal & River Trust**

The Minister or any other Minister of the Crown may, with the approval of the Treasury, from time to time make grants to Canal & River Trust.]

**Textual Amendments**

**F289** S. 43A inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 32](#) (with arts. 4-6)

**44 Account by Minister of receipt and disposal of certain sums.**

(1) The Minister shall, as respects each financial year, prepare in such form and manner as the Treasury may direct an account of, and of the disposal by him of, the following sums, namely—

(a) any sums issued to the Minister by the Treasury out of the National Loans Fund under section 20(3) of the Act of 1962 for the purpose of making loans—

(i) under section 20(1) of that Act to any of the Boards; or

<sup>F290</sup>(ii) .....

[<sup>F291</sup>(iii) under the said section 20(1) as applied by section <sup>F292</sup> ... 27(1) of this Act to <sup>F292</sup> ... the Bus Company;]

(b) any sums which, being received by the Minister—

(i) by way of interest on, or the repayment of, any such loan as aforesaid; or

(ii) by way of interest on, or the repayment of, the commencing capital debt under section 39 of that Act of any of the Boards <sup>F293</sup> ... ; or

[<sup>F294</sup>(iii) by way of interest on, or the repayment of, the commencing capital debt of <sup>F292</sup> ... the Bus Company under Schedule 2 to this Act; or]

(iv) in respect of any surplus of <sup>F293</sup> ... the Railways Board <sup>F295</sup> ...,

are required by section 20(5), <sup>F293</sup> ... or 39(8) of the Act of 1962, by section 42(8) <sup>F295</sup> ... of this Act, by the said section 20(5) as applied by the said section <sup>F293</sup> ... , <sup>F292</sup> ... or 27(1), or by the said section 39(8) as applied by paragraph 1 of the said Schedule 2 to be paid by the Minister into the National Loans Fund or the Consolidated Fund, as the case may be.

[<sup>F296</sup>(2) The Secretary of State shall, as respects each financial year, prepare in such form and manner as the Treasury may direct an account of, and of the disposal by him of, the following sums, namely—

(a) any sums issued to the Secretary of State by the Treasury out of the National Loans Fund under section 20(3) of the Act of 1962 for the purpose of making loans to the Scottish Group under section 20(1) of that Act as applied by section 27(1) of this Act;

(b) any sums which, being received by the Secretary of State—

(i) by way of interest on, or the repayment of, any such loan as aforesaid; or

(ii) by way of interest on, or the repayment of, the commencing capital debt of the Scottish Group under Schedule 2 to this Act,

are required by section 20(5) of the Act of 1962 as applied by the said section 27(1), or by section 39(8) of the Act of 1962 as applied by paragraph

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1 of the said Schedule 2, to be paid by the Secretary of State into the National Loans Fund.]

- (3) The Minister and the Secretary of State shall each send every account prepared by him under subsection (1) or (2) of this section to the Comptroller and Auditor-General not later than the end of November following the year to which the account relates; and the Comptroller and Auditor-General shall examine, certify and report on the account and lay copies of it, together with his report, before each House of Parliament.
- (4) In consequence of the foregoing provisions of this section—
- (a) in section 20 of the Act of 1962, subsection (6) (which makes provision corresponding to this section in respect of certain of the sums aforesaid) shall cease to have effect; and
  - (b) in section 29(12) of that Act (which applies subsections (2) to (6) of the said section 29) for the words “subsections (2) to (6)” there shall be substituted the words “ subsections (2)(5) ”.

#### Textual Amendments

- F290** S. 44(1)(a)(ii) repealed by [S.I. 1973/338, Sch. 2](#)
- F291** S. 44(1)(a)(iii) repealed (G.B.) (1. 4. 1991) by [S.I. 1991/510, reg. 5, Sch.](#)
- F292** Words repealed by [Transport Act 1980 \(c. 34, SIF 126\), Sch. 9 Pt. III](#)
- F293** Words repealed by [S.I. 1973/338, Sch. 2](#)
- F294** S. 44(1)(b)(iii) repealed (G.B.) (1. 4. 1991) by [S.I. 1991/510, reg. 5, Sch.](#)
- F295** Words in s. 44(1)(b) omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\), art. 1\(2\), Sch. 2 para. 33](#) (with arts. 4-6)
- F296** S. 44(2)(a)(b) repealed (S.) (7.6.2002) by [S.S.I. 2002/263, art. 5\(2\), Sch.](#)

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

- C39** The text of ss. 38(1), 41(8)(9), 44(4), 46(5), 50(10), 51(3), 52(4), 94(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### *Additional duties of Boards and new authorities*

#### **F297 45 Duty of Freight Corporation and Railways Board to review organisation.**

#### Textual Amendments

- F297** S. 45 repealed (6.1.1994) by [1993 c. 43, ss. 150\(1\)\(o\), 152\(1\)\(3\), Sch. 12 para. 6\(3\), Sch.14; S.I. 1993/3237, art. 22](#)

#### **46 Duty of Boards and new authorities to promote research and development.**

- (1) This section applies to the following authorities namely, the Boards and the new authorities.
- (2) It shall be incumbent on each of the authorities to whom this section applies to take such steps as appear to them to be practicable and desirable for promoting—

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- (a) research on lines settled from time to time with the approval of the Minister [<sup>F298</sup>or, in the case of the Waterways Board, <sup>F299</sup>... the Scottish Ministers] into matters affecting, or arising out of, the exercise of the functions of that authority or of any subsidiary of that authority; and
- (b) the doing of such work as is requisite to enable—
- (i) the results of any research into any such matter as aforesaid (whether or not promoted by that authority); and
  - (ii) anything resulting from any idea affecting, or arising out of, the exercise of any of those functions,
- to be turned to account;
- but nothing in this subsection shall be construed as imposing upon that authority, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which that authority would not otherwise be subject.
- (3) An authority to whom this section applies may take such steps as aforesaid with respect to any matter either by themselves carrying out the necessary research or doing the necessary work or by arranging for that research to be carried out or that work to be done by some other person with or without assistance (including financial assistance) from that authority; but nothing in this section shall authorise any such authority to do themselves, either directly or through a subsidiary, any work such as is mentioned in subsection (2)(b) of this section which the authority would not have power to do apart from this section.
- (4) In the application of this section to the Scottish Group, the reference to the Minister shall be construed as a reference to the Secretary of State.
- (5) In section 27(3) of the Act of 1962 for the words “education and research” there shall be substituted the words “ and education ”.

#### Textual Amendments

**F298** Words in s. 46(2)(a) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, Sch. 2 Pt. II para. 3(5) (with art. 4)

**F299** Words in s. 46(2)(a) omitted (2.7.2012) by virtue of The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), Sch. 2 para. 34 (with arts. 4-6)

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

**C40** The text of ss. 38(1), 41(8)(9), 44(4), 46(5), 50(10), 51(3), 52(4), 94(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### *Additional powers of Boards and new authorities*

#### **47 Extension to new authorities of certain functions of Boards.**

- (1) Without prejudice to the provisions of sections 48 to 52 of this Act, but subject to the provisions of this section—
- (a) the following provisions of the Act of 1962 (which confer certain powers on the Boards), that is to say—
    - (i) section 11 (development of land);
    - (ii) section 12 (pipe-lines);

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- (iii) section 13 (powers of manufacture and production) other than subsection (2) thereof;
  - (iv) section 14 (supplementary powers);
  - (v) section 15 (compulsory purchase of land);
  - (vi) section 16 (working agreements involving the delegation of special statutory powers);
  - (vii) section 17 (power to promote and oppose Bills);
  - (viii) section 43(1) to (3) (power to make charges for services and facilities); and
- (b) section 25 of the Act of 1962 (which relates to subsidiaries of the Boards), shall have effect as if each of the new authorities were one of the Boards.
- (2) In relation to [<sup>F300</sup>the Bus Company and] the Scottish Group, subsection (1)(a) of this section shall have effect as if sub-paragraphs (ii) and (v) thereof were omitted.
- (3) In the application of sections 11, 13, 14, 17 and 25 of the Act of 1962 to the Scottish Group any reference to the Minister shall be construed as a reference to the Secretary of State.
- (4) The reference in subsection (1) of section 16 of the Act of 1962 to a working agreement to which that section applies shall include a reference to any arrangements such as are mentioned in section 50(9) of this Act.

#### Textual Amendments

**F300** Words in s. 47(2) repealed (G.B.) (1. 4. 1991) by [S.I. 1991/510](#), [reg. 5](#), Sch.

## 48 Manufacture, repair and supply.

- (1) This section applies to the following authorities, namely, the Boards and the new authorities, [<sup>F301</sup>but in its application to the Scottish Group any reference to the Minister shall be construed as a reference to the Secretary of State].
- [<sup>F302</sup>(1A) In the application of this section to the Waterways Board <sup>F303</sup>..., any reference to the Minister shall be construed as a reference to the Scottish Ministers and, in subsection (6) [<sup>F304</sup>the reference to section 27(8) shall be construed as a reference to section 27(8C) and] the words “and with the approval of the Treasury” shall be omitted.]
- (2) Each of the authorities to whom this section applies shall have power—
- (a) to manufacture for sale to outside persons (that is to say, to persons other than an authority to whom this section applies or a subsidiary of such an authority), and to repair for outside persons, anything which the authority consider can advantageously be so manufactured or, as the case may be, repaired by the authority by reason of the fact that the authority or a subsidiary of theirs have materials or facilities for, or skill in, the manufacture or repair of that thing connection with some existing activity of that authority or subsidiary;
  - (b) to sell to outside persons, and for that purpose to purchase, anything which is of a kind which the authority or a subsidiary of theirs purchase in the course of some existing activity of that authority or subsidiary;
  - (c) at any place where the authority, in the exercise of their powers under section 14(1)(d) of the Act of 1962, provide a car park, to repair motor vehicles



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for outside persons, and to sell to outside persons petrol, oil and spare parts and accessories for motor vehicles, and for that purpose to purchase any of those things, whether or not those persons are using the car park;

and the Waterways Board shall have power to sell goods of any description to outside persons, whether or not persons using their waterways, at any place where persons using those waterways may require facilities for the purchase of those goods, and for that purpose to purchase any such goods; and in paragraph (a) or (b) of this subsection the expression “existing activity” means, in relation to any activity at any time undertaken by virtue of that paragraph, any other activity already carried on at that time, including any such activity carried on by virtue of any provision of this section other than paragraph (c) of this subsection and other than the provisions of this subsection relating only to the Waterways Board.

- (3) An authority to whom this section applies shall not engage in any activity authorised by subsection (2) of this section, and shall exercise their control over any subsidiary of theirs so as to ensure that the subsidiary does not engage in any such activity, unless the authority are satisfied that they or the subsidiary can do so without detriment to the duties imposed on the authority by the Act of 1962 or this Act.
- (4) Each of the authorities to whom this section applies shall from time to time submit to the Minister for his approval proposals as to the manner in which any activities authorised by subsection (2) of this section or any activities of manufacture authorised by section 13 of the Act of 1962 are to be carried on by them or any subsidiary of theirs, and shall carry on, or, as the case may be, exercise their control over that subsidiary so as to ensure that the subsidiary carries on, those activities in accordance with the Minister’s approval, and the Minister may—
  - (a) in approving any proposals, approve them subject to such modifications or subject to compliance with such conditions as he thinks fit; and
  - (b) at any time, after consultation with the authority, direct the authority to discontinue or, as the case may be, to exercise their control over any of their subsidiaries so as to require the subsidiary to discontinue, any of the activities which the authority or subsidiary are carrying on in accordance with the Minister’s approval.
- (5) The Minister shall publish, in such manner as he thinks fit, any proposals approved by him under subsection (4) of this section, and shall send copies of those proposals to the Confederation of British Industry and the Trades Union Congress.
- (6) Each authority to whom this section applies shall include in the report in respect of any year required to be submitted by them under section 27(8) of the Act of 1962 such particulars as the Minister may, after consultation with the authority and with the approval of the Treasury, direct with respect to all or any of the activities authorised by subsection (2) of this section or the activities of manufacture authorised by section 13 of the Act of 1962 which have been carried on in that year by the authority or any of their subsidiaries.
- (7) The foregoing provisions of this section shall have effect notwithstanding subsection (1) of section 13 of the Act of 1962 (so far as it confines any authority’s powers of manufacture, purchase and repair to those conferred by that section), and in that section—

subsection (2) (which relates to the powers of the Waterways Board to manufacture for sale and to repair plant and equipment of a kind ordinarily made for use in connection with the operation of an inland waterway);

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subsection (3) (which is superseded by the provisions of subsection (4) of this section) except as respects proposals approved thereunder before the appointed day for the purposes of this section;

subsection (5) (which restricts the power of the Boards to manufacture road vehicles, bodies or chassis for road vehicles or major components of road vehicles);

subsection (6) (which restricts the power of the Boards to purchase or trade in road vehicles or in spare parts, accessories, petrol or oil for such vehicles and from engaging in the maintenance or repair of such vehicles, spare parts or accessories); and

subsection (7) (which restricts the power of the Boards to engage in shipbuilding),

shall cease to have effect.

(8) Section 29(7) of the Act of 1962 (which relates to manufacture or production by subsidiaries of the Holding Company) shall have effect as if each of the new authorities were one of the Boards.

(9) In this section references to manufacture include references to construction and production, references to repair include references to maintenance, and references to selling or purchasing include references to supplying, or, as the case may be, obtaining, by exchange, hire or hire-purchase.

#### Textual Amendments

**F301** Words in s. 48(1) repealed (S.) (7.6.2002) by virtue of S.S.I. 2002/263, art. 5(2), **Sch.**

**F302** S. 48(1A) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(6)** (with art. 4)

**F303** Words in s. 48(1A) omitted (2.7.2012) by virtue of The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 2 para. 35(a)** (with arts. 4-6)

**F304** Words in s. 48(1A) inserted (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 2 para. 35(b)** (with arts. 4-6)

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

**C41** S. 48 restricted (6.1.1994) by 1993 c. 43, ss. 150(1)(o), 152(1), **Sch. 12 para. 6(4)**; S.I. 1993/3237, **art. 2(2)**

**C42** S. 48(2) extended by Transport Act 1982 (c. 49, SIF 126), **Sch. 5 para. 5(1)(2)**

**C43** Part of the text of s. 48(7), s. 49(1) and s. 50(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 49 Powers with respect to land. **E+W+S**

(1) Where a Board or a new authority propose under section 11 of the Act of 1962 to develop any of their land for use otherwise than for the purposes of their business, the Minister may give his consent under subsection (4) of that section to the acquisition by that Board or authority by agreement of adjoining land for the purpose of developing it with the other land whether or not it appears to him that the other land cannot be satisfactorily developed unless the adjoining land is so acquired; and accordingly, in the said subsection (4), the words from "but the Minister" to "by the Board" (which preclude the Minister from giving his consent unless it so appears to him) shall cease to have effect.

*Status: Point in time view as at 07/05/2024.*

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- (2) A Board or new authority may exercise the power conferred by the said subsection (4) without the consent of the Minister in any case where the Minister has under subsection (3) of the said section 11 consented to the incurring by that Board or new authority of a substantial item of expenditure in developing land as aforesaid which includes expenditure proposed to be incurred in that exercise of that power.
- (3) Notwithstanding anything in the said subsection (4), where a Board or new authority propose to dispose of any of their land they shall have power to acquire by agreement adjoining land for the purpose of disposing of it together with the other land; but the Board or new authority shall not incur any substantial item of expenditure under this subsection without the consent of the Minister, and the Minister may from time to time give directions to the Boards and the new authorities indicating what is to be treated for the purposes of this subsection as a substantial item of expenditure.
- (4) Notwithstanding anything in the said subsection (4), the Railways Board and the Waterways Board shall each have power with the consent of the Minister to acquire land by agreement with a view to its development, whether by that Board or by some other person, for use otherwise than for the purposes of their business if that land—
- (a) in the case of the Railways Board adjoins other land of that Board; or
  - <sup>F305</sup>(b) in the case of the Waterways Board adjoins or is situated in the vicinity of any inland waterway comprised in the undertaking of that Board,]
- and the Minister is satisfied that the land acquired will be so connected by rail or so situated in relation to a railway line or, as the case may be, will be so connected by waterway to, or is so situated in relation to, [<sup>F306</sup>that waterway] that the rail services of the Railways Board <sup>F307</sup> . . . can be directly used [<sup>F308</sup>or, as the case may be, the waterway can be conveniently used] by the person for the time being occupying the land proposed to be acquired.
- <sup>F309</sup>(4A) In the application of this section to the Waterways Board —
- (a) the references to the Minister are to be read as references to the Scottish Ministers;
  - (b) the powers in subsections (3) and (4) are limited to the acquisition of adjoining land in Scotland.]
- (5) In the application of subsections (1) to (3) of this section to the Scottish Group, any reference therein to the Minister shall be construed as a reference to the Secretary of State.
- (6) . . . . . <sup>F310</sup>

#### Extent Information

**E10** This version of this provision extends to England, Wales and Scotland only; a separate version has been created for Northern Ireland only

#### Textual Amendments

**F305** S. 49(4)(b) substituted (16.1.1995) by 1995 c. i, s. 23(a) (with s. 34)

**F306** Words in s. 49(4) substituted (16.1.1995) by 1995 c. i, s. 23(b) (with s. 34)

**F307** Words in s. 49(4) omitted (16.1.1995) by virtue of 1995 c. i, s. 23(c) (with s. 34)

**F308** Words in s. 49(4) inserted (16.1.1995) by 1995 c. i, s. 23(d) (with s. 34)

**F309** S. 49(4A) substituted (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), Sch. 2 para. 36 (with arts. 4-6)

**F310** S. 49(6) repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. VI

*Status: Point in time view as at 07/05/2024.*

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

**C44** S. 49 restricted (E.W.S.) (1.1.1993) by S.I. 1992/3060, reg. 4(2).

**C45** Part of the text of s. 48(7), s. 49(1) and s. 50(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**49 Powers with respect to land. N.I.**

- (1) Where a Board or a new authority propose under section 11 of the Act of 1962 to develop any of their land for use otherwise than for the purposes of their business, the Minister may give his consent under subsection (4) of that section to the acquisition by that Board or authority by agreement of adjoining land for the purpose of developing it with the other land whether or not it appears to him that the other land cannot be satisfactorily developed unless the adjoining land is so acquired; and accordingly, in the said subsection (4), the words from “but the Minister” to “by the Board” (which preclude the Minister from giving his consent unless it so appears to him) shall cease to have effect.
- (2) A Board or new authority may exercise the power conferred by the said subsection (4) without the consent of the Minister in any case where the Minister has under subsection (3) of the said section 11 consented to the incurring by that Board or new authority of a substantial item of expenditure in developing land as aforesaid which includes expenditure proposed to be incurred in that exercise of that power.
- (3) Notwithstanding anything in the said subsection (4), where a Board or new authority propose to dispose of any of their land they shall have power to acquire by agreement adjoining land for the purpose of disposing of it together with the other land; but the Board or new authority shall not incur any substantial item of expenditure under this subsection without the consent of the Minister, and the Minister may from time to time give directions to the Boards and the new authorities indicating what is to be treated for the purposes of this subsection as a substantial item of expenditure.
- (4) Notwithstanding anything in the said subsection (4), the Railways Board and the Waterways Board shall each have power with the consent of the Minister to acquire land by agreement with a view to its development, whether by that Board or by some other person, for use otherwise than for the purposes of their business if that land—
  - (a) in the case of the Railways Board adjoins other land of that Board; or
  - (b) in the case of the Waterways Board adjoins any of the commercial or cruising waterways of the Board within the meaning of section 104 of this Act,
 and the Minister is satisfied that the land acquired will be so connected by rail or so situated in relation to a railway line or, as the case may be, will be so connected by waterway to, or is so situated in relation to, that commercial or cruising waterway that the rail services of the Railways Board or, as the case may be, the waterway services of the Waterways Board can be directly used by the person for the time being occupying the land proposed to be acquired.

[<sup>F309</sup>(4A) In the application of this section to the Waterways Board —

- (a) the references to the Minister are to be read as references to the Scottish Ministers;
- (b) the powers in subsections (3) and (4) are limited to the acquisition of adjoining land in Scotland.]

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(5) In the application of subsections (1) to (3) of this section to the Scottish Group, any reference therein to the Minister shall be construed as a reference to the Secretary of State.

(6) ..... <sup>F989</sup>

**Extent Information**

**E31** This version of this provision extends to Northern Ireland only; a separate version has been created for England, Wales and Scotland only

**Textual Amendments**

**F309** S. 49(4A) substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 36** (with arts. 4-6)

**F989** S. 49(6) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), **Sch. Pt. VI**

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

**C167** Part of the text of s. 48(7), s. 49(1) and s. 50(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**50 Miscellaneous provisions as to powers.**

(1) In addition to their power under the provisions of sections 3(3)(e), 9(2)(c) or 10(3)(f) of the Act of 1962 to store certain goods and to use certain premises to provide facilities for the storage of other goods, the Railways Board, <sup>F311</sup> ... and Waterways Board shall each have power, with the consent of <sup>F312</sup> ... [<sup>F313</sup>the Scottish Ministers], to provide such facilities at any other premises [<sup>F314</sup>in Scotland]; and the said section 3(3)(e) shall apply to goods which have been or are to be carried by a subsidiary of the Railways Board as it applies to goods which have been or are to be carried by that Board.

<sup>F315</sup>(2) .....

(3) The Waterways Board, [<sup>F316</sup>the Bus Company] and [<sup>F317</sup>the Scottish Group] shall each have power to provide and manage hotels in places where those using the inland waterways owned or managed by the Waterways Board or, as the case may be, the transport services provided by [<sup>F316</sup>the Bus Company] or [<sup>F317</sup>Scottish Group] may require them, for use both by those and other persons.

(4) [<sup>F318</sup>In subsection (3) of this section the reference to hotels includes a reference] to any other form of residential accommodation or facilities, including caravan and camping sites, for travellers or persons on holiday; and the said subsection (3) shall be without prejudice to the powers of the Waterways Board, [<sup>F319</sup>the Bus Company] or [<sup>F317</sup>the Scottish Group] under section 14(1)(d) of the Act of 1962 to provide amenities and facilities for persons for whom they do not provide residential accommodation or facilities.

(5) In addition to the powers of the Waterways Board to provide the transport services by road authorised by section 10(3)(c) of the Act of 1962 (carriage of goods which have been or are to be carried by the Board by inland waterway and carriage of goods where the use of an inland waterway owned or managed by the Board has been temporarily interrupted), that Board shall have power, with the consent of <sup>F320</sup> ... [<sup>F321</sup>the Scottish

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Ministers], to provide other transport services by road for the carriage of goods and to carry goods by those services.

- (6) Without prejudice to the powers of the Waterways Board apart from this subsection, that Board shall have power to provide services and facilities for the use for amenity or recreational purposes (including fishing) of the inland waterways and reservoirs owned or managed by them.
- (7) Each of the Boards and new authorities shall have power to provide for any person technical advice or assistance, including research services, as respects any matter in which the Board or new authority have skill or experience.
- (8) Without prejudice to their powers apart from this subsection, each of the Boards and the new authorities shall have power to form, promote and assist, or join with any other person in forming, promoting and assisting, a company for carrying on any activities which that Board or new authority have power to carry on.

<sup>F322</sup>(8A) .....

- (9) Where a company for carrying on any activities which any of the Boards or new authorities have power to carry on has been formed in the exercise of the powers conferred by subsection (8) of this section by that Board or new authority, whether alone or jointly with some other person, or where in the exercise of their powers under paragraph (a) of section 14(1) of the Act of 1962 any of the Boards or new authorities have entered into an agreement with any person for the carrying on by that person, whether as agent for that Board or new authority or otherwise, of any of the activities which that Board or new authority may themselves carry on, then, without prejudice to their powers under paragraph (b) of the said section 14(1), that Board or new authority may, with the consent of the Minister [<sup>F323</sup>or, in the case of the Waterways Board, <sup>F324</sup>... the Scottish Ministers][<sup>F325</sup>, or, in the case of the Scottish Group, with the consent of the Secretary of State], enter into arrangements with that company or person for the transfer from that Board or new authority to that company or person, in such manner and on such terms (including payments by any of the parties to the arrangements to any other of them) as may be provided for by the arrangements, of any property, rights or liabilities of that Board or new authority relevant to the carrying on of those activities.
- (10) In section 43(3) of the Act of 1962, after the word “recover” there shall be inserted the words “ or waive ”.

#### Textual Amendments

- F311** Words repealed by [Transport Act 1981 \(c. 56, SIF 126\)](#), **Sch. 12**, Pt. I
- F312** Words in s. 50(1) omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 37(2)(a)** (with arts. 4-6, Sch. 2 para. 37(6))
- F313** Words in s. 50(1) inserted (1.4.2001) by [S.I. 2000/3251](#), arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(8)** (with art. 4)
- F314** Words in s. 50(1) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 37(2)(b)** (with arts. 4-6, Sch. 2 para. 37(6))
- F315** S. 50(2) repealed (6.1.1994) by [1993 c. 43](#), ss. 150(1)(o), 152(1)(3), [Sch. 12 para. 6\(5\)\(a\)](#), **Sch. 14**; [S.I. 1993/3237](#), **art. 2(2)**
- F316** Words in s. 50(3) repealed (E.W.S.) (1. 4. 1991) by [S.I. 1991/510](#), reg. 5, **Sch.**
- F317** S. 50(3)(4): “The Scottish Group” repealed (S.) (7.6.2002) by virtue of [S.S.I. 2002/263](#), art. 5(2), **Sch.**
- F318** Words in s. 50(4) substituted (6.1.1994) by [1993 c. 43](#), ss. 150(1)(o), 152(1), **Sch. 12 para. 6(5)(b)**; [S.I. 1993/3237](#), **art. 2(2)**
- F319** Words in s. 50(4) repealed (E.W.S.) (1. 4. 1991) by [S.I. 1991/510](#), reg. 5, **Sch.**

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- F320** Words in s. 50(5) omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 37(3)** (with arts. 4-6)
- F321** Words in s. 50(5) inserted (1.4.2001) by [S.I. 2000/3251](#), arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(9)** (with art. 4)
- F322** S. 50(8A) omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 37(4)** (with arts. 4-6)
- F323** Words in s. 50(9) inserted (1.4.2001) by [S.I. 2000/3251](#), arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(10)** (with art. 4)
- F324** Words in s. 50(9) omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 37(5)** (with arts. 4-6)
- F325** Words in s. 50(9) repealed (S.) (7.6.2002) by virtue of [S.S.I. 2002/263](#), art. 5(2), **Sch.**

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

- C46** S. 50(1)(2) restricted (E.W.S) (1.1.1993) by [S.I. 1992/3060](#), **reg. 4(2)**.
- C47** S. 50(7)—(10) extended by [Transport \(London\) Act 1969 \(c. 35\)](#), **s. 6(2)**
- C48** S. 50(7) restricted (6.1.1994) by [1993 c. 43](#), ss. 150(1)(o), 152(1), **Sch. 12 para. 6(5)(c)**; [S.I. 1993/3237](#), **art. 2(2)**

**51 Subsidiaries and joint subsidiaries.**

- (1) This section applies to the following authorities, namely, the Boards and the new authorities.
- (2) For the purposes of paragraphs (d), (f), (g) and (h) of section 14(1) of the Act of 1962, services and facilities provided by, persons employed by, or equipment of, a subsidiary of an authority to whom this section applies, and, for the purposes of section 15(1) of that Act, land required for the purposes of the business of a wholly-owned subsidiary of such an authority, shall be deemed to be services and facilities provided by, persons employed by, equipment of, or land required for the purposes of the business of, that authority; and section 43(1) to (3) of the Act of 1962 shall apply to any subsidiary of an authority to whom this section applies as they apply to that authority.
- (3) In section 27(1) of the Act of 1962 (which empowers the Minister or, as the case may be, the Secretary of State to give directions of a general character as to the exercise and performance by any authority to whom this section applies of their functions in relation to matters which appear to him to affect the national interest) after the word “functions” there shall be inserted the words “ (including the exercise of rights conferred by the holding of interests in companies) ”.
- (4) A wholly-owned subsidiary of an authority to whom this section applies shall not be regarded as a common carrier when carrying on any activity which that authority have power to carry on and in carrying on which that authority are not to be so regarded.
- (5) Where a company of which two or more authorities to whom this section applies are members would, if those authorities were a single body corporate, be a wholly-owned subsidiary of that body corporate, then, whether or not that company is apart from this subsection a subsidiary of one of those authorities, that company shall be deemed for the purposes of the Act of 1962 and of the provisions other than [<sup>F326</sup>Part VI] of this Act to be a wholly-owned subsidiary of each of those authorities; and any such company is hereafter in this section referred to in relation to each of those authorities as a “joint subsidiary” of that authority.

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- (6) In the case of a joint subsidiary, section 25(1) of the Act of 1962 shall not apply but it shall be the joint duty of both or all the authorities of which it is a joint subsidiary to exercise their control over the subsidiary so as to ensure that the subsidiary—
- (a) does not engage in activities in which none of those authorities have power to engage (including activities in which none of those authorities have power to engage because the consent of the Minister [<sup>F327</sup>or, as the case may be, the Scottish Ministers] has not been obtained), and
  - (b) does not do anything which the Minister has [<sup>F328</sup>or, as the case may be, the Scottish Ministers have] directed any of those authorities not to do, and
  - (c) does not, except with the consent of the Minister [<sup>F329</sup>or, as the case may be, the Scottish Ministers], borrow money from any person other than those authorities, and
  - (d) does not, except with the consent of the Minister [<sup>F330</sup>or, as the case may be, the Scottish Ministers], raise money by the issue of shares or stock to any person other than those authorities;

and the Minister [<sup>F331</sup>or, as the case may be, the Scottish Ministers] may give to those authorities such directions as appear to him [<sup>F331</sup>or, as the case may be, to them] appropriate for ensuring that they carry out the duty imposed on them by this subsection.

- [<sup>F332</sup>(7) In the application of subsection (6) of this section to a joint subsidiary of the Scottish Group, any reference in that subsection to the Minister shall be construed as including a reference to the Secretary of State.]

#### Textual Amendments

- F326** Words in s. 51(5) substituted (1.1.1996) by 1995 c. 23, s. 60(1), **Sch. 7 para. 3** (with ss. 54, 55); S.I. 1995/2181, **art. 2**
- F327** Words in s. 51(6)(a) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(11)** (with art. 4)
- F328** Words in s. 51(6)(b) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(12)** (with art. 4)
- F329** Words in s. 51(6)(c) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(13)** (with art. 4)
- F330** Words in s. 51(6)(d) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(14)** (with art. 4)
- F331** Words in s. 51(6)(d) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(15)(a)(b)** (with art. 4)
- F332** S. 51(7) repealed (S.) (7.6.2002) by S.S.I. 2002/263, art. 5(2), **Sch.**

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

- C49** The text of ss. 38(1), 41(8)(9), 44(4), 46(5), 50(10), 51(3), 52(4), 94(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.
- C50** S. 51(5) excluded by **Transport Act 1978 (c. 55), s. 15(4)**
- C51** S. 51(5)(6) modified by **London Regional Transport Act 1984 (c. 32, SIF 126), s. 62(3)(4)**



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## 52 Supplementary and miscellaneous provisions.

- (1) Section 14(6) of the Act of 1962 (which provides that the powers conferred by the foregoing provisions of that Act are cumulative and that those provisions relate only to the capacity as a statutory corporation of any authority on whom those powers are conferred and that nothing in those provisions shall be construed as authorising the disregard by any such authority of any enactment or rule of law) shall apply to any powers conferred on any Board or new authority by any provision of this Act and to the provision of this Act conferring that power as it applies to the powers and provisions mentioned in the said section 14(6).
- (2) For the purposes of section 15 of the Act of 1962 (which confers on the Boards . . . <sup>F333</sup> powers of compulsory purchase for the purpose of their business) activities carried on by any of the Boards . . . <sup>F333</sup> by virtue of section 48 or subsections (1) to (7) of section 50 of this Act shall be deemed not to form part of the business of the Board . . . <sup>F333</sup>.
- (3) Sections 27, 28 and 89 of the Act of 1962 (which relate respectively to the powers of the Minister to give directions to the Boards, to powers exercisable subject to the Minister's consent, and to the duty to give effect to the Minister's directions) shall apply to each of the new authorities as if they were one of the Boards [<sup>F334</sup> and, in their application to the Scottish Group, as if any reference therein to the Minister were a reference to the Secretary of State]; and any reference in the said section 27 or 89 to that Act or in the said section 28 to the foregoing provisions of that Act shall include a reference to this Act.
- (4) In Schedule 1 to the Act of 1962, for paragraph 4 (which relates to the authentication of the application of the seal of a Board) there shall be substituted the following:—
  - “4 The application of the seal of any Board shall be authenticated by the signature of the secretary of the Board or some other person authorised by the Board, either generally or specially, to act for that purpose.”
- (5) It is hereby declared that none of the new authorities are to be regarded as the servant or agent of the Crown, or as enjoying any status, immunity or privilege of the Crown, or (subject to the provisions of sections 160, 161 and 162 of this Act) as exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local, and that their property is not to be regarded as property of, or property held on behalf of, the Crown.

### Textual Amendments

**F333** Words repealed by [Transport Act 1980 \(c. 34, SIF 126\)](#), [Sch. 9 Pt. III](#)

**F334** Words in s. 52(3) repealed (S.) (7.6.2002) by [S.S.I. 2002/263](#), [art. 5\(2\)](#), [Sch.](#)

### Modifications etc. (not altering text)

**C52** S. 52 amended by [Transport Act 1980 \(c. 34, SIF 126\)](#), [Sch. 5 para. 5\(1\)\(2\)](#)

**C53** The text of ss. 38(1), 41(8)(9), 44(4), 46(5), 50(10), 51(3), 52(4), 94(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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*Power to dissolve Holding Company, etc.*

**53 Provisions with respect to Holding Company.**

- (1) The Minister may by order, which shall be subject to annulment in pursuance of a resolution of either House of Parliament—
  - (a) transfer any such property, rights and liabilities of the Holding Company as may be specified in the order, being property, rights or liabilities not already transferred under section 4 or 28 of this Act or this paragraph, from the Holding Company to such other person, being either a publicly-owned body (that is to say, a body established for the carrying on of any industry or part of an industry, or of any undertaking, under national ownership or control, or a wholly-owned subsidiary of a body so established) or a Minister of the Crown, as may be specified in the order;
  - (b) .....
  - (c) where by virtue of paragraph (a). . . of this subsection any property, rights and liabilities are transferred to, or to a subsidiary of, any of the Boards or the new authorities, confer on the Board or new authority in question any powers necessary to ensure the continued carrying on of any activities carried on before the transfer which would otherwise fall by virtue of section 25 of the Act of 1962 or section 51(6) of this Act to be discontinued after the transfer.
- (2) In the case of any order made by virtue of paragraph (a). . . of subsection (1) of this section, the property, rights and liabilities in question shall on such date as may be appointed for the purpose by the order be transferred, and by virtue of this Act vest, in accordance with the order; and Schedule 4 to this Act shall apply to any transfer under this subsection.
- (3) Any order under subsection (1) of this section may contain such supplementary, incidental and consequential provision as may appear to the Minister to be necessary or expedient, and in particular, in the case of an order by virtue of paragraph (b) of that subsection, may make provision—
  - (a) for the preparation by such person or persons as may be specified in the order of a statement or statements of the Holding Company's accounts for the period from the end of that dealt with in the last annual statement of accounts published by that Company down to the date of the dissolution of that Company;
  - (b) for the auditing of any such statement of accounts;
  - (c) for the making to the Minister by such person or persons as may be specified in the order of a report or reports on the exercise and performance by the Holding Company of their functions during any period not dealt with in the reports made by that company under section 29(16) of the Act of 1962;
  - (d) repealing any provision of the Act of 1962 or of this or any other Act which the Minister is satisfied has become unnecessary in consequence of the dissolution of the Holding Company.
- (4) The Minister may, with the consent of the Treasury, pay to any person upon whom duties are imposed by virtue of subsection (3)(a) to (c) of this section such remuneration, and such allowances in respect of expenses, as the Minister may with the agreement of the Treasury determine.
- (5) The Minister may from time to time by order—

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- (a) vary the commencing capital debt under section 39 of the Act of 1962 of the Holding Company or of any of the Boards or under Schedule 2 to this Act of any of the new authorities; or
- (b) extinguish the liability of the Holding Company in respect of all or any sums lent to that Company by the Minister under section 29(12) of the Act of 1962 on or after 1st January 1963,

where that appears to the Minister expedient to take account of any transfer of property, rights and liabilities—

- (i) in the case of the Holding Company, under section 4 or 28 of this Act or under subsection (1) of this section;
- (ii) in the case of any of the Boards or new authorities, under the said subsection (1);

and any such order may contain such transitional provisions as appear to the Minister expedient to take account of any interest underpaid or overpaid on the commencing capital debt of the authority in question or on the sums referred to in paragraph (b) of this subsection.

- (6) On requiring any of the new authorities to make provisional payments under paragraph 2 of Schedule 2 to this Act in respect of the commencing capital debt of that new authority, the Minister may by notice in writing to the Holding Company specify what part of those payments is to be treated as attributable to transfers to that new authority from the Holding Company under section 4 or 28 of this Act; and where such notice is given, then, in respect of any period in respect of which those provisional payments are made, the liability of the Holding Company to make payments of interest under section 39(6) or 20(2) of the Act of 1962 on the commencing capital debt of, or loans to, that Company shall be correspondingly reduced.
- (7) For the purposes of any order made by virtue of paragraph (a) of subsection (5) of this section with respect to the Scottish Group, any reference in that subsection to the Minister shall be construed as a reference to the Minister and the Secretary of State acting jointly.
- (8) The power of the Minister or of the Minister and the Secretary of State acting jointly to make an order under subsection (5) of this section shall be subject to the approval of the Treasury and any such order shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

**Textual Amendments**

**F335** Words repealed by [Transport Holding Company Act 1972 \(c. 14, SIF 126\)](#), **s. 1(3)**

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

**C54** S. 53 amended and extended by [Transport Holding Company Act 1972 \(c. 14, SIF 126\)](#), **s. 1(3)(4)(6)**

*Miscellaneous further provisions with respect to transport services*

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**Textual Amendments**

**F336** S. 54 repealed (1.4.1994) by 1993 c. 43, s. 49(1), 150(1)(o), **Sch.14** (with s. 152(2), Sch. 13 para. 3(2)); S.I. 1994/571, **art. 5**

**55 Amendments as to [F337 Transport Consultative Committees][F337 Passengers' Council and London Transport Users' Committee] .**

(1) The services and facilities in relation to which, under section 56 of the Act of 1962, the duty imposed, subject to the subsequent provisions of that section, by subsection (4) thereof on [F338 the [F339 Rail Passengers' Council][F339 Passengers' Council] and the [F340 Rail Passengers' Committees][F340 London Transport Users' Committee]] falls to be exercised—

(a) shall not include any services or facilities provided by the Waterways Board  
F341 . . . .

F342 (b) . . . . .

and accordingly—

F343 (i) . . . . .

(ii) the reference in paragraph (b) of that subsection to a Board shall be construed as excluding a reference to the Waterways Board F344 . . . ;

F343 (iii) . . . . .

F345 (iv) . . . . .

F346 . . . .

F347 (2) . . . . .

F347 (3) . . . . .

F347 (4) . . . . .

F348 (5) . . . . .

**Textual Amendments**

**F337** Words in s. 55 heading substituted (E.W.S.) (25.2.2010) by **The Passengers' Council (Non-Railway Functions) Order 2010 (S.I. 2010/439)**, **Sch. para. 4(3)**

**F338** Words in s. 55(1) substituted (1.2.2001) by 2000 c. 38, s. 227, **Sch. 22 para. 17**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

**F339** Words in s. 55(1) substituted (E.W.S.) (25.2.2010) by **The Passengers' Council (Non-Railway Functions) Order 2010 (S.I. 2010/439)**, **Sch. para. 4(2)**

**F340** Words in s. 55 substituted (E.W.S.) (24.7.2005) by **Railways Act 2005 (c. 14)**, s. 60(2), **Sch. 12 para. 2(2)**; S.I. 2005/1909, art. 2, Sch.

**F341** Words in s. 55(1)(a) repealed (1.4.1994) by 1993 c. 43, s. 150(1)(o), Sch. 12 para. 6(6)(b)(i), **Sch. 14**; S.I. 1994/571, **art. 5**

**F342** S. 55(1)(b) repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), **Sch. 12** para. 6(6)(b)(ii), Sch. 14; S.I. 1994/571, **art. 5**

**F343** S. 55(1)(b)(i)(iii) repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), Sch. 12 para. 6(6)(b)(iii), **Sch. 14**; S.I. 1994/571, **art. 5**

**F344** Words repealed by **Transport Act 1980 (c. 34, SIF 126)**, **Sch. 9 Pt. III**

**F345** S. 55(1)(iv) repealed by **Transport Act 1980 (c. 34, SIF 126)**, **Sch. 9 Pt. III**

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- F346** Words in s. 55(1)(b) repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), Sch. 12 para. 6(6)(b)(iv), **Sch. 14**; S.I. 1994/571, **art. 5**
- F347** S. 55(2)-(4) repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), Sch. 12 para. 6(6), **Sch. 14**; S.I. 1994/571, **art. 5**
- F348** Ss. 54(8), 55(5) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

## 56 Assistance by Minister or local authority towards capital expenditure on public transport facilities.

- (1) Subject to subsections (3) and (4) of this section, the Minister may with the approval of the Treasury make grants upon such terms and conditions as the Minister thinks fit to any person towards expenditure appearing to the Minister to be of a capital nature incurred or to be incurred by that person for the purpose of the provision, improvement or development of facilities for public passenger transport in Great Britain.
- (2) Subject to subsections (3) and (4) of this section, any local authority, or any two or more local authorities acting jointly, may make payments, upon such terms and conditions as they think fit, to any other person towards expenditure appearing to the authority or authorities in question to be of a capital nature incurred or to be incurred by that other person for the purpose of the provision, improvement or development of any facilities for public passenger transport if it appears to the authority or each of the authorities in question that those facilities are or will be of benefit to the area of that authority.

[<sup>F349</sup>(2A) Where a relevant local authority proposes to make payments under subsection (2) of this section in respect of any facilities, that authority may enter into an agreement with [<sup>F350</sup>the [<sup>F351</sup>Strategic Rail Authority under which the Authority undertakes to exercise any of its franchising functions]] [<sup>F350</sup>a national authority under which the national authority undertakes to exercise any of its functions in relation to railways or railway services] , to refrain from exercising such functions, or to exercise such functions in a particular manner, in relation to the use of the facilities in question.

(2B) In subsection (2A) of this section, the following expressions have the following meanings respectively, that is to say—

<sup>F352</sup>  
...

[<sup>F353</sup>“franchising functions”, in relation to the [<sup>F354</sup>Strategic Rail Authority], has the same meaning as it has in relation to [<sup>F354</sup>it] in section 54 of the Railways Act 1993;]

[<sup>F355</sup>“national authority” means the Secretary of State, the Scottish Ministers or the National Assembly for Wales;]

“relevant local authority” means—

- (a) a non-metropolitan county or district council in England or in Wales;
- (b) a London borough council or the Common Council of the City of London; or
- (c) a [<sup>F356</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994] in Scotland;

and any reference to a relevant local authority shall be taken to include a reference to any two or more such authorities acting jointly.]

(3) No grant under subsection (1) of this section and no payment under subsection (2) thereof shall be made for the purposes of the provision, improvement or development

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of an airfield, a harbour, or (except when used or to be used for the purposes of a ferry service) a dock, pier or jetty.

[<sup>F357</sup>(3A) Nothing in subsection (3) of this section precludes the making of grants under subsection (1) or payments under subsection (2) thereof for the purposes of the provision, improvement or development of facilities for or in connection with public passenger transport by land to or from an airfield, harbour, dock, pier or jetty.]

[<sup>F358</sup>(4) No grant under subsection (1) of this section shall be made for any purpose unless the Secretary of State is satisfied that the provision, improvement or development of the facilities in question is appropriate in the light of—

- (a) any general policies formulated by [<sup>F359</sup>an Integrated Transport Authority or ] a Passenger Transport Authority under section 9A(1) or (5) of this Act;
- (b) any general policies formulated by a non-metropolitan county council under section 63(1) or by a [<sup>F360</sup>regional or islands] council under section 63(2) of the Transport Act 1985 (policies with respect to services to be secured to meet public transport requirements within the county); and
- (c) any measures adopted by such a council under subsection (6) of that section (measures for promoting co-ordination of services and convenience of the public in using services for their area);

which are relevant to the need for facilities of the description in question in the locality in which they are, or are to be, provided; and no payment under subsection (2) of this section shall be made for any purpose unless the local authority or local authorities in question are so satisfied.]

(5) Where a person has used or proposes to use an asset of his for the purpose of the provision, improvement or development of facilities for public passenger transport, the Minister or, as the case may be, the local authority or local authorities in question may for the purposes of this section treat as expenditure of a capital nature incurred or to be incurred by that person for that purpose such amount not exceeding the capital value of that asset as the Minister or, as the case may be, the local authority or authorities in question may determine to be appropriate.

(6) In this section the expression “local authority” means—

- (a) the council of any county, . . . <sup>F361</sup> or [<sup>F362</sup>district] in England or Wales;
- (b) . . . . . <sup>F363</sup>
- (bb) [<sup>F364</sup>an Integrated Transport Authority for an integrated transport area in England;]
- [<sup>F365</sup>(bc) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;]
- [<sup>F366</sup>(bd) a combined county authority established under section 9(1) of the Levelling-up and Regeneration Act 2023;]
- (c) the Council of the Isles of Scilly; [<sup>F367</sup>or]
- (d) any [<sup>F368</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994] in Scotland; [<sup>F369</sup>or
- (e) Strathclyde Passenger Transport Authority;]

and in the application of this section to Scotland or Wales any reference to the Minister shall be construed as a reference to the Secretary of State.

#### Textual Amendments

**F349** S. 56(2A)(2B) inserted (1.4.1994) by 1993 c. 43, s. 138(2); S.I. 1994/571, art. 5

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- F350** Words in s. 56(2A) substituted (E.W.S.) (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 12 para. 2(3)**; S.I. 2005/1909, art. 2, Sch.
- F351** Words in s. 56(2A) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 1(2)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)
- F352** S. 56(2B): Definition of “the Franchising Director” omitted (1.2.2001) by virtue of 2000 c. 38, s. 215, **Sch. 16 para. 1(3)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II); and repealed (*prosp.*) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**
- F353** Words in s. 56(2B) repealed (E.W.S.) (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), Sch. 12 para. 2(4)(a), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.
- F354** S. 56(2B): Words in definition of “franchising functions” substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 1(3)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provisions in Sch. 2 Pt. II)
- F355** Words in s. 56(2B) inserted (24.7.2005 for specified purposes; 16.10.2005 in force so far as not already in force) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 12 para. 2(4)(b)**; S.I. 2005/1909, art. 2, Sch.; S.I. 2005/2812, art. 2(1), Sch. 1
- F356** S. 56(2B): words in para. (c) in the definition of “relevant local authority” substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(7)(a)**; S.I. 1996/323, art. 4(1)(b) (c)
- F357** S. 56(3A) inserted (*retrospectively*) by 1993 c. 43, s. 138(3); S.I. 1994/571, art. 5
- F358** S. 56(4) substituted by Transport Act 1985 (c. 67, SIF 126), s. 139(2), **Sch. 7 para. 12**
- F359** Words in s. 56(4)(a) inserted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 12(2)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F360** Words in s. 56(4)(b) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 80(7)(b), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(c)(d), **Sch. 2**
- F361** Words repealed by Local Government Act 1972 (c. 70, SIF 81:1), **Sch. 30**
- F362** Word substituted by virtue of Local Government Act 1972 (c. 70, SIF 81:1), s. 179(3)
- F363** Words repealed by London Regional Transport Act 1984 (c. 32, SIF 126), s. 71(3)(b), Sch. 7
- F364** S. 56(6)(bb) substituted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 12(3)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F365** S. 56(6)(bc) inserted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 148(6), **Sch. 6 para. 6**; S.I. 2009/3318, art. 2(c)
- F366** S. 56(6)(bd) inserted (E.W.) (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2) (c), **Sch. 4 para. 18** (with s. 247)
- F367** Word in s. 56(6)(c) ceased to have effect (S.) (20.3.1997) by virtue of S.I. 1997/318, art. 2(a)
- F368** Words in s. 56(6)(d) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(7)(c)**; S.I. 1996/323, art. 4(1)(b)(c)
- F369** S. 56(6)(e) and preceding word inserted (S.) (20.3.1997) by S.I. 1997/318, art. 2(b)

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

- C55** S. 56 amended by Local Government Act 1974 (c. 7, SIF 81:1), Sch. 1 paras. 6, 8, 9 and Local Government (Scotland) Act 1975 (c. 30, SIF 81:2), s. 14(1)(3)
- C56** S. 56(1) excluded by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 2(3), 45, **Sch. 7 Pt. VI para. 2**
- C57** S. 56(1) restricted by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 42(3), 45, **Sch. 7 Pt. VI para. 2**
- C58** S. 56(2) restricted by London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 5 para. 16**

**57 Grants for research or development in connection with transport services, etc.**

The Minister shall have power with the approval of the Treasury to make grants upon such terms and conditions as he thinks fit to any person towards expenditure incurred or to be incurred by that person—

- (a) in carrying out research in connection with the provision or improvement of transport services by land or inland waterway or of harbour facilities; or

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- (b) in developing for the purposes of the provision or improvement of such services or facilities the results of any research carried out by, or any invention or idea of, that or any other person.

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

**C59** S. 57: functions made exercisable concurrently or jointly with the Welsh Ministers (1.4.2018) by 2006 c. 32, **Sch. 3A para. 1** (as inserted by Wales Act 2017 (c. 4), s. 71(4), Sch. 4 para. 1 (with Sch. 7 paras. 1, 6); S.I. 2017/1179, **reg. 3(p)**)

**[<sup>F370</sup>57A Grants for research or development in connection with transport services by inland waterways in Scotland**

Without prejudice to the Minister’s power to make grants for research or development in connection with transport services by inland waterways in Scotland under section 57, the Scottish Ministers may make grants upon such terms and conditions as they think fit to any person towards expenditure incurred or to be incurred by that person—

- (a) in carrying out research in connection with the provision or improvement of transport services by inland waterway in Scotland; or
- (b) in developing for the purposes of the provision or improvement of such services or facilities the results of any research carried out by, or any invention or idea of, that or any other person.]

**Textual Amendments**

**F370** S. 57A inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(16)** (with art. 4)

**58**

<sup>F371</sup>

**Textual Amendments**

**F371** S. 58 repealed by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 29**

<sup>F372</sup>**PART V**

**Textual Amendments**

**F372** Pt. V (ss. 59-94) repealed (1.1.1996) by 1995 c. 23, s. 60(2), **Sch. 8 Pt. I** (with ss. 54, 55); S.I. 1995/2181, **art. 2**

*The licensing authority*

.....

*Operators’ licences*

.....



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*[<sup>F456</sup> Further provisions about operating centres]*

.....

*Operators’ licences: supplementary provisions*

.....

*Special authorisations for use of large goods vehicles*

.....

*Enforcement*

.....

*Supplementary*

.....

*Abolition of carriers’ licensing for certain vehicles*

.....

*Transitional provisions and amendments*

.....

**PART VI**

**DRIVERS’ HOURS**

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

**C77** Pt. VI (ss. 95–103) modified by [S.I. 1986/1459](#), **arts. 2, 3**

**C78** Pt. VI (ss. 95–103) excluded (23.6.1999) by [S.I. 1999/1736](#), **art. 8(1)(a)(6)(7)**

**C79** Pt. VI modified (16.8.2006) by [The Dover Harbour Revision Order 2006 \(S.I. 2006/2167\)](#), **arts. 1(1), 27**

**95 Vehicles and drivers subject to control under Part VI.**

(1) This Part of this Act shall have effect with a view to securing the observance of proper hours [<sup>F517</sup>or periods] of work by persons engaged in the carriage of passengers or goods by road and thereby protecting the public against the risks which arise in cases where the drivers of motor vehicles are suffering from fatigue <sup>F518</sup>...

<sup>F519</sup>(1A) .....

(2) This Part of this Act applies to—

(a) passenger vehicles, that is to say—

(i) public service vehicles; and

(ii) motor vehicles (other than public service vehicles) constructed or adapted to carry more than twelve passengers;

(b) goods vehicles, that is to say—

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- (i) heavy locomotives, light locomotives, motor tractors and any motor vehicle so constructed that a trailer may by partial superimposition be attached to the vehicle in such a manner as to cause a substantial part of the weight of the trailer to be borne by the vehicle; and
  - (ii) motor vehicles (except those mentioned in paragraph (a) of this subsection) constructed or adapted to carry goods other than the effects of passengers.
- [<sup>F520</sup>(c) vehicles not falling within paragraph (a) or (b) of this subsection which—
- (i) are vehicles within the meaning given by Article 4 of the Community Drivers' Hours Regulation; and
  - (ii) are not referred to in Article 3 of that Regulation.]
- (3) This Part of this Act applies to any such person as follows (in this Part of this Act referred to as “a driver”), that is to say—
- (a) a person who drives a vehicle to which this Part of this Act applies in the course of his employment (in this Part of this Act referred to as “an employee-driver”); and
  - (b) a person who drives such a vehicle for the purposes of a trade or business carried on by him (in this Part of this Act referred to as “an owner-driver”);
- and in this Part of this Act references to driving by any person are references to his driving as aforesaid.

#### Textual Amendments

- F517** Words inserted with saving by [Road Traffic \(Drivers' Ages and Hours of Work\) Act 1976 \(c. 3\), s. 2\(1\)\(d\)](#)
- F518** Words in [s. 95\(1\)](#) omitted (31.12.2020) by virtue of [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(3), **32(a)** (with reg. 114); 2020 c. 1, Sch. 5 para. 1(1)
- F519** [S. 95\(1A\)](#) omitted (31.12.2020) by virtue of [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(3), **32(b)** (with reg. 114); 2020 c. 1, Sch. 5 para. 1(1)
- F520** [S. 95\(2\)\(c\)](#) substituted (2.7.2007) by [The Community Drivers Hours and Recording Equipment Regulations 2007 \(S.I. 2007/1819\)](#), regs. 1(1), **6**

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

- C80** [S. 95](#) applied (with modifications) (S.) (4.1.1995) by [1994 c. 39, s. 40\(7\)](#) (with s. 7(2)); [S.I. 1994/2850](#), art. 3(a), **Sch. 2**

## 96 Permitted driving time and periods of duty.

- (1) Subject to the provisions of this section, a driver shall not on any working day drive a vehicle or vehicles to which this Part of this Act applies for periods amounting in the aggregate to more than ten hours.
- (2) Subject to the provisions of this section, if on any working day a driver has been on duty for a period of, or for periods amounting in the aggregate to, five and a half hours and—
  - (a) there has not been during that period, or during or between any of those periods, an interval of not less than half an hour in which he was able to obtain rest and refreshment; and

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- (b) the end of that period, or of the last of those periods, does not mark the end of that working day,  
there shall at the end of that period, or of the last of those periods, be such an interval as aforesaid.
- (3) Subject to the provisions of this section, the working day of a driver—
- (a) except where paragraph (b) or (c) of this subsection applies, shall not exceed eleven hours;
- (b) if during that day he is off duty for a period which is, or periods which taken together are, not less than the time by which his working day exceeds eleven hours, shall not exceed twelve and a half hours;
- (c) if during that day—
- (i) all the time when he is driving vehicles to which this Part of this Act applies is spent in driving one or more express carriages or contract carriages; and
- (ii) he is able for a period of not less than four hours to obtain rest and refreshment,  
shall not exceed fourteen hours.
- (4) Subject to the provision of this section, there shall be, between any two successive working days of a driver, an interval for rest which—
- (a) subject to paragraph (b) of this subsection, shall not be of less than eleven hours;
- (b) if during both those days all or the greater part of the time when he is driving vehicles to which this Part of this Act applies is spent in driving one or more passenger vehicles, may, on one occasion in each working week, be of less than eleven hours but not of less than nine and a half hours;
- and for the purposes of this Part of this Act a period of time shall not be treated, in the case of an employee-driver, as not being an interval for rest by reason only that he may be called upon to report for duty if required.
- (5) Subject to the provisions of this section a driver shall not be on duty in any working week for periods amounting in the aggregate to more than sixty hours.
- (6) Subject to the provisions of this section, there shall be, in the case of each working week of a driver, a period of not less than twenty-four hours for which he is off duty, being a period either falling wholly in that week or beginning in that week and ending in the next week; but—
- (a) where the requirements of the foregoing provisions of this subsection have been satisfied in the case of any week by reference to a period ending in the next week, no part of that period (except any part after the expiration of the first twenty-four hours of it) shall be taken into account for the purpose of satisfying those requirements in the case of the next week; and
- (b) those requirements need not be satisfied in the case of any working week of a driver who on each working day falling wholly or partly in that week drives one or more stage carriages if that week is immediately preceded by a week in the case of which those requirements have been satisfied as respects that driver or during which he has not at any time been on duty.
- (7) If in the case of the working week of any driver the following requirement is satisfied, that is to say, that, in each of the periods of twenty-four hours beginning at midnight which make up that week, the driver does not drive a vehicle to which this Part of

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this Act applies for a period of, or periods amounting in the aggregate to, more than four hours, the foregoing provisions of this section shall not apply to him in that week, except that the provisions of subsections (1), (2) and (3) shall nevertheless have effect in relation to the whole of any working day falling partly in that week and partly in a working week in the case of which that requirement is not satisfied.

- (8) If on any working day a driver does not drive any vehicle to which this Part of this Act applies—
- (a) subsections (2) and (3) of this section shall not apply to that day, and
  - (b) the period or periods of duty attributable to that day for the purposes of subsection (5) of this section shall, if amounting to more than eleven hours, be treated as amounting to eleven hours only.
- (9) For the purposes of subsections (1) and (7) of this section no account shall be taken of any time spent driving a vehicle elsewhere than on a road if the vehicle is being so driven in the course of operations of agriculture or forestry.

[<sup>F521</sup>For the purposes of subsections (1) and (7) of section 96 no account shall be taken of any time spent in driving a goods vehicle elsewhere than on a road if the vehicle is being so driven in the course of [<sup>F522</sup>operations of quarrying or of] carrying out any work in the construction, reconstruction, alteration, extension or maintenance of, or of a part of, a building, or of any other fixed works of construction or civil engineering (including works for the construction, improvement or maintenance of a road) and, for the purposes of this exemption where the vehicle is being driven on, or on a part of a road in the course of carrying out any work for the improvement or maintenance of, or of that part of, that road, it shall be treated as if it were being driven elsewhere than on a road.]

- (10) For the purpose of enabling drivers to deal with cases of emergency or otherwise to meet a special need, the Minister may by regulations—
- (a) create exemptions from all or any of the requirements of subsections (1) to (6) of this section in such cases and subject to such conditions as may be specified in the regulations;
  - (b) empower [<sup>F523</sup>a traffic commissioner], subject to the provisions of the regulations—
    - (i) to dispense with the observance of all or any of those requirements (either generally or in such circumstances or to such extent as the [<sup>F524</sup>commissioner thinks] fit) in any particular case for which provision is not made under paragraph (a) of this subsection;
    - (ii) to grant a certificate (which, for the purposes of any proceedings under this Part of this Act, shall be conclusive evidence of the facts therein stated) that any particular case falls or fell within any exemption created under the said paragraph (a);
 and regulations under this subsection may enable any dispensation under paragraph (b)(i) of this subsection to be granted retrospectively and provide for a document purporting to be a certificate granted by virtue of paragraph (b) (ii) of this subsection to be accepted in evidence without further proof.

- (11) If any of the requirements of [<sup>F525</sup>the domestic drivers' hours code], is contravened in the case of any driver—
- (a) that driver; and
  - (b) any other person (being that driver's employer or a person to whose orders that driver was subject) who caused or permitted the contravention,

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shall be liable on summary conviction to a fine not exceeding [<sup>F526</sup>level 4 on the standard scale]; but a person shall not be liable to be convicted under this subsection if he proved to the court—

- (i) that the contravention was due to unavoidable delay in the completion of a journey arising out of circumstances which he could not reasonably have foreseen; or
- (ii) in the case of a person charged under paragraph (b) of this subsection, that the contravention was due to the fact that the driver had for any particular period or periods driven or been on duty otherwise than in the employment of that person or, as the case may be, otherwise than in the employment in which he is subject to the orders of that person, and that the person charged was not, and could not reasonably have become, aware of that fact.

[<sup>F527</sup>(11A) Where, in the case of a driver <sup>F528</sup> of a motor vehicle, there is <sup>F529</sup>... a contravention [<sup>F530</sup>, whether occurring in the United Kingdom, [<sup>F531</sup>an EU member State][<sup>F532</sup>or another contracting country],] of any requirement of [<sup>F533</sup>the applicable Community rules] as to periods of driving, or distance driven, or periods on or off duty, then the offender and [<sup>F534</sup>the offender's employer, and any other person to whose orders the offender was subject,] shall be liable on summary conviction to a fine not exceeding [<sup>F526</sup>level 4 on the standard scale]]

[<sup>F535</sup>(11B) But a person shall not be liable to be convicted under subsection (11A) if—

- (a) he proves the matters specified in paragraph (i) of subsection (11); or
- (b) being charged as the offender's employer or a person to whose orders the offender was subject, he proves the matters specified in paragraph (ii) of that subsection][<sup>F536</sup>; or
- (c) being charged as mentioned in paragraph (b) [<sup>F537</sup>in respect of a contravention of a provision of the Community Drivers' Hours Regulation], he proves—
  - (i) that at the time of the contravention he was complying with Article 10(1) (distance-related payments etc) and Article 10(2) (organisation of drivers' work etc) of the Community Drivers' Hours Regulation; and
  - (ii) that he took all reasonable steps to avoid the [<sup>F538</sup>contravention; or]]
- [<sup>F539</sup>(d) being charged as mentioned in paragraph (b) in respect of a contravention of a provision of the AETR, the person proves—
  - (i) that at the time of the contravention the person was complying with Article 11(1) to (3) of the AETR (organisation of drivers' work, distance-related payments etc); and
  - (ii) that the person took all reasonable precautions to avoid the contravention.]

[<sup>F540</sup>(11C) A person who—

- (a) is subject to the requirement imposed by Article 10(4) of the Community Drivers' Hours Regulation[<sup>F541</sup>or Article 11(5) of the AETR] (undertakings etc to ensure that contractually agreed transport time schedules respect [<sup>F542</sup>that provision]); and
  - (b) fails to take all reasonable steps to comply with that requirement,
- shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.]

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[<sup>F543</sup>(11D) If a driver who is subject to the orders of more than one transport undertaking fails, without reasonable excuse, to provide each of them with sufficient information to enable them to avoid a contravention of Chapter 2 of the Community Drivers' Hours Regulation, he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.]

(12) The Minister may by order—

- (a) direct that subsection (1) of this section shall have effect with the substitution for the reference to ten hours of a reference to nine hours, either generally or with such exceptions as may be specified in the order;
- (b) direct that paragraph (a) of subsection (3) of this section shall have effect with the substitution for the reference to eleven hours of a reference to any shorter period, or remove, modify or add to the provisions of that subsection containing exceptions to the said paragraph (a);
- (c) remove, modify or add to any of the requirements of subsections (2), (4), (5) or (6) of this section or any of the exemptions provided for by subsections (7), (8) and (9) thereof;

and any order under this subsection may contain such transitional and supplementary provisions as the Minister thinks necessary or expedient, including provisions amending any definition in section 103 of this Act which is relevant to any of the provisions affected by the order.

[<sup>F544</sup>(13) In this Part of this Act “the domestic driver’s hours code” means the provisions of subsections (1) to (6) of this section as for the time being in force (and, in particular, as modified, added to or substituted by or under any instrument in force under <sup>F545</sup>... subsection (10) or (12) of this section).]

#### Textual Amendments

- F521** Exemption added by [S.I. 1970/257](#), **art. 4**
- F522** Words inserted by [S.I. 1971/818](#), **art. 5(b)**
- F523** Words in s. 96(10)(b) substituted (3.7.2013) by [The Local Transport Act 2008 \(Traffic Commissioners\) \(Consequential Amendments\) Order 2013 \(S.I. 2013/1644\)](#), art. 1(1), **Sch. 1** (with arts. 1(3), 2, 7)
- F524** Words substituted by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 3, **Sch. 2 Pt. II para. 1(2)**
- F525** Words substituted by [Road Traffic \(Drivers' Ages and Hours of Work\) Act 1976 \(c. 3\)](#), **s. 2(1)(e)**
- F526** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38**, 46 and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F**, 289G (as inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 54**)
- F527** S. 96(11A) inserted by [European Communities Act 1972 \(c. 68\)](#), **Sch. 4 para. 9(2)(a)**
- F528** Words repealed by [S.I. 1986/1457](#), **reg. 2**
- F529** Words in s. 96(11A) omitted (2.7.2007) by virtue of [The Community Drivers Hours and Recording Equipment Regulations 2007 \(S.I. 2007/1819\)](#), regs. 1(1), **7(a)(i)**
- F530** Words in s. 96(11A) inserted (31.1.2018) by [The Community Drivers Hours Offences \(Enforcement\) Regulations 2018 \(S.I. 2018/24\)](#), regs. 1, **2(2)**
- F531** Words in s. 96(11A) inserted (31.12.2020) immediately after the coming into force of [S.I. 2019/453](#), Pts. 3, 4) by [The Drivers' Hours and Tachographs \(Amendment\) Regulations 2020 \(S.I. 2020/1658\)](#), regs. 1(3), **4(2)**
- F532** Words in s. 96(11A) substituted (31.12.2020) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(3), **33(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F533** Words substituted by [Road Traffic \(Drivers' Ages and Hours of Work\) Act 1976 \(c. 3\)](#), **s. 2(1)(c)**
- F534** Words in s. 96(11A) substituted (2.7.2007) by [The Community Drivers Hours and Recording Equipment Regulations 2007 \(S.I. 2007/1819\)](#), regs. 1(1), **7(a)(ii)**

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- F535** S. 96(11B) inserted by Transport Act 1978 (c. 55), s. 10
- F536** S. 96(11B)(c) and preceding word inserted (2.7.2007) by The Community Drivers Hours and Recording Equipment Regulations 2007 (S.I. 2007/1819), regs. 1(1), 7(b)
- F537** Words in s. 96(11B)(c) inserted (26.3.2019) by The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(2), 3(2)(a)
- F538** Words in s. 96(11B)(c)(ii) substituted (26.3.2019) by The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(2), 3(2)(b)
- F539** S. 96(11B)(d) inserted (26.3.2019) by The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(2), 3(2)(c)
- F540** S. 96(11C) inserted (2.7.2007) by The Community Drivers Hours and Recording Equipment Regulations 2007 (S.I. 2007/1819), regs. 1(1), 7(c)
- F541** Words in s. 96(11C) inserted (26.3.2019) by The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(2), 3(3)(a)
- F542** Words in s. 96(11C) substituted (26.3.2019) by The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(2), 3(3)(b)
- F543** S. 96(11D) inserted (5.2.2008) by The Passenger and Goods Vehicles (Recording Equipment) (Downloading and Retention of Data) Regulations 2008 (S.I. 2008/198), regs. 1(1), 4(a)
- F544** S. 96(13) added by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), s. 2(1)(f)
- F545** Words in s. 96(13) omitted (31.12.2020) by virtue of The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(3), 33(b) (with reg. 114); 2020 c. 1, Sch. 5 para. 1(1)

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

- C81** Power to restrict s. 96 conferred by Energy Act 1976 (c. 76), s. 4(2), Sch. 1 para. 3
- C82** S. 96 applied (with modifications) (S.) (4.1.1995) by 1994 c. 39, s. 40(7) (with s. 7(2)); S.I. 1994/2850, art. 3(a), Sch. 2
- C83** S. 96(1)–(6) excluded by S.I. 1986/1458, art. 2(1)

**[<sup>F546</sup>96A. Authorisation of field tests**

- (1) The Secretary of State may authorise a person to carry out tests (“field tests”) of—
  - (a) recording equipment that has not been type-approved [<sup>F547</sup>as required by Article 11A] of the EU Tachographs Regulation (granting of type-approval), or
  - (b) modifications or additions to recording equipment that has been so approved.
- (2) An authorisation is to be in writing.
- (3) The Secretary of State may withdraw an authorisation by giving written notice.
- (4) An authorisation may contain conditions which may in particular relate to—
  - (a) the places where and equipment by means of which a field test is, or is to be, carried out;
  - (b) the procedure to be adopted in carrying out a field test;
  - (c) the records to be kept and the evidence to be furnished of the carrying out of a field test;
  - (d) the training of persons for carrying out field tests;
  - (e) the inspection by or on behalf of the Secretary of State of places where and equipment by means of which field tests are, or are to be, carried out;
  - (f) the display, at the places where field tests are carried out, of signs indicating that field tests are carried out there by persons approved by the Secretary of State.

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- (5) The Secretary of State must from time to time publish lists of the persons currently authorised under this section.]

#### Textual Amendments

- F546** S. 96A inserted (2.3.2016) by [The Passenger and Goods Vehicles \(Tachographs\) \(Amendment\) Regulations 2016 \(S.I. 2016/248\)](#), regs. 1(2), 3
- F547** Words in s. 96A(1)(a) substituted (31.12.2020) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(3), 34; 2020 c. 1, Sch. 5 para. 1(1)

#### [<sup>F548</sup>97 Installation and use of recording equipment [<sup>F549</sup>: EU requirements].

[ No person shall use, or cause or permit to be used, a vehicle to which this section <sup>F550</sup>(1) applies

- [ unless there is in the vehicle recording equipment which—
- <sup>F551</sup>(a)
- (i) has been installed in accordance with the [<sup>F552</sup>EU Tachographs Regulation][<sup>F553</sup>(including the relevant technical specifications)][<sup>F554</sup>or the equivalent EU Regulation];
  - [<sup>F555</sup>(ii) complies with [<sup>F556</sup>the EU Tachographs Regulation (including the relevant technical specifications)]; and
  - (iii) is being used as provided by [<sup>F557</sup>Articles [<sup>F558</sup>27 to 29 and 32 to 37]] of [<sup>F559</sup>the EU Tachographs Regulation]][<sup>F560</sup>, or]
- [ in which there is recording equipment which has been repaired (whether <sup>F560</sup>(b) before or after installation) otherwise than in accordance with the [<sup>F561</sup>EU Tachographs Regulation][<sup>F562</sup>or the equivalent EU Regulation];

and any person who contravenes this subsection shall be liable on summary conviction to a fine not exceeding [<sup>F563</sup>level 5] on the standard scale.]

[ A person shall not be liable to be convicted under subsection (1) of this section if he <sup>F564</sup>(1A) proves to the court that he neither knew nor ought to have known that the recording equipment had not been installed or repaired, as the case may be, in accordance with the [<sup>F565</sup>EU Tachographs Regulation].]

- (2) A person shall not be liable to be convicted under subsection (1) [<sup>F566</sup>(a)] of this section if he proves to the court that the vehicle in question was proceeding to a place where recording equipment which would comply with <sup>F567</sup>... the [<sup>F568</sup>EU Tachographs Regulation] was to be installed in the vehicle in accordance with that Regulation.
- (3) A person shall not be liable to be convicted under subsection (1) [<sup>F566</sup>(a)] of this section by reason of the recording equipment installed in the vehicle in question not being in working order if he proves to the court that—
  - (a) it had not become reasonably practicable for the equipment to be repaired by an approved fitter or workshop; and
  - (b) the requirements of [<sup>F569</sup>Article 37(2) of the EU Tachographs Regulation] were being complied with.
- (4) A person shall not be liable to be convicted under subsection (1) [<sup>F566</sup>(a)] of this section by reason of any seal on the recording equipment installed in the vehicle in question not being intact if he proves to the court that—



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- (a) the breaking or removal of the seal could not have been avoided;
- (b) it had not become reasonably practicable for the seal to be replaced by an approved fitter or workshop; and
- (c) in all other respects the equipment was being used as provided by [<sup>F570</sup>Articles 27 to 29 and 32 to 37 of the EU Tachographs Regulation].

[ A person shall not be liable to be convicted under subsection (1)(a) of this section by <sup>F571</sup>(4A) reason of the driver card not being used with the recording equipment installed in the vehicle in question if he proves to the court that—

- (a) the driver card was damaged, malfunctioning, lost or stolen;
- (b) the requirements of [<sup>F572</sup>Articles 29(2) to (5), 35 and 37(2) of the EU Tachographs Regulation] were being complied with; and
- (c) in all other respects the recording equipment was being used as provided by [<sup>F573</sup>Articles 27 to 29 and 32 to 37] of that Regulation.]

[ A person shall not be liable to be convicted under subsection (1) of this section <sup>F574</sup>(4B) by reason of using recording equipment which does not bear [<sup>F575</sup>the relevant UK type-approval mark or the relevant EU type-approval mark (see Article 11A of the EU Tachographs Regulation)] if he proves to the court that the use of the recording equipment was in the course of a field test authorised under section 96A.

(4C) Where a person (“the driver”)—

- (a) in the course of the driver’s employment, uses a vehicle in contravention of subsection (1), and
  - (b) is liable to be convicted under that subsection in respect of that use,
- the employer also commits an offence and shall be liable on summary conviction to a fine.

(4D) A person shall not be liable to be convicted under subsection (4C) in respect of the use of a vehicle if the requirements of Article 10(1) and (2) of the Community Drivers’ Hours Regulation (liability of transport undertakings) and Article 33(1) of the EU Tachographs Regulation (responsibility of transport undertakings) were complied with in relation to that use.]

(5) For the purposes of this section recording equipment is used as provided by [<sup>F576</sup>Articles 27 to 29 and 32 to 37 of the EU Tachographs Regulation] if, and only if, the circumstances of its use are such that each requirement of those Articles is complied with.

(6) This section applies at any time to any vehicles to which this Part of this Act applies if, at that time, Article 3 of the [<sup>F577</sup>EU Tachographs Regulation] requires recording equipment to be installed and used in that vehicle; and in this section and [<sup>F578</sup>sections 97B to 97G] of this Act [<sup>F579</sup>(so far as those sections relate to the EU Tachographs Regulation)] any expression which it is also used in that Regulation has the same meaning as in that Regulation.

(7) In this Part of this Act—

[<sup>F580</sup>“Commission Implementing Regulation (EU) 2016/799” means Commission Implementing Regulation (EU) 2016/799 of 18 March 2016 implementing Regulation (EU) No 165/2014 of the European Parliament and of the Council laying down the requirements for the construction, testing, installation, operation and repair of tachographs and their components, as amended from time to time;

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“Council Regulation (EEC) No 3821/85” means Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport;]

[<sup>F581</sup>“the equivalent EU Regulation” means Regulation (EU) No 165/2014 of the European Parliament and of the Council on tachographs in road transport as it has effect in EU law, as amended from time to time;]

[<sup>F582</sup>“the EU Tachographs Regulation” means Regulation (EU) No. 165/2014 of the European Parliament and of the Council on tachographs in road transport [<sup>F583</sup>, as amended from time to time,]<sup>F584</sup> ...]

“recording equipment” means equipment for recording information as to the use of a vehicle.

[<sup>F585</sup>“the relevant EU type-approval mark”, in relation to recording equipment, means a type-approval mark issued by an EU member State in relation to that type of recording equipment under Article 14 of the equivalent EU Regulation;]

[<sup>F586</sup>“the relevant technical specifications” means Annex II of Commission Implementing Regulation (EU) 2016/799, and—]

(a) in the case of a vehicle put into service for the first time before 1st May 2006—

- (i) Annex I of the EU Tachographs Regulation,
- (ii) Annex IB of Council Regulation (EEC) No 3821/85 for as long as preserved and applied by Article 46 of the EU Tachographs Regulation, or
- (iii) Annex 1C to Commission Implementing Regulation (EU) 2016/799;

(b) in the case of a vehicle put into service for the first time on or after 1 May 2006 but before the date on which the Passenger and Goods Vehicles (Tachographs) (Amendment etc.) Regulations 2019 come into force—

- (i) Annex IB of Council Regulation (EEC) No 3821/85 for as long as preserved and applied by Article 46 of the EU Tachographs Regulation; or
- (ii) Annex IC to Commission Implementing Regulation (EU) 2016/799; and

(c) in the case of a vehicle put into service for the first time on or after the date on which the Passenger and Goods Vehicles (Tachographs) (Amendment etc.) Regulations 2019 come into force, Annex 1C to Commission Implementing Regulation (EU) 2016/799.

[<sup>F587</sup>“the relevant UK type-approval mark”, in relation to recording equipment, means the mark which is “the relevant type-approval mark” in relation to the marking of that equipment, for the purposes of the Motor Vehicles (Type Approval) Regulations 1980.]]

### Textual Amendments

**F548** Ss. 97, 97A, 97B substituted for s. 97 by S.I. 1979/1746, **reg. 2**

**F549** Words in s. 97 heading inserted (26.3.2019) by The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(2), **4(a)**

**F550** S. 97(1) substituted by S.I. 1984/144, **reg. 2(1)**

**F551** By S.I. 1989/2121, **art. 2(2)** it is provided that in s. 97(1) the words from “unless” to the end of paragraph (c) shall become paragraph(a), with paragraphs (a), (b) and (c) becoming sub-paragraphs “(i)”, “(ii)” and “(iii)” of that paragraph

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- F552** Words in s. 97(1)(a)(i) substituted (2.3.2016) by The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016 (S.I. 2016/248), regs. 1(2), **4(2)(a)**
- F553** Words in s. 97(1)(a)(i) inserted (24.10.2019) by The Passenger and Goods Vehicles (Tachographs) (Amendment etc.) Regulations 2019 (S.I. 2019/1379), regs. 1, **4(2)(a)**
- F554** Words in s. 97(1)(a)(i) inserted (31.12.2020) by The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(2), **35(2)** (as substituted by S.I. 2019/1379, regs. 1, **8(a)**; 2020 c. 1, **Sch. 5 para. 1(1)**)
- F555** S. 97(1)(a)(ii) substituted (26.3.2019) by The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(2), **4(b)**
- F556** Words in s. 97(1)(a)(ii) substituted (24.10.2019) by The Passenger and Goods Vehicles (Tachographs) (Amendment etc.) Regulations 2019 (S.I. 2019/1379), regs. 1, **4(2)(b)**
- F557** Words substituted by S.I. 1986/1457, **reg. 3(3)(a)**
- F558** Words in s. 97(1)(a)(iii) substituted (2.3.2016) by The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016 (S.I. 2016/248), regs. 1(2), **4(2)(b)**
- F559** Words in s. 97(1)(a)(iii) substituted (24.10.2019) by The Passenger and Goods Vehicles (Tachographs) (Amendment etc.) Regulations 2019 (S.I. 2019/1379), regs. 1, **4(2)(c)**
- F560** S. 97(1)(b) and word "or" preceding it inserted by S.I. 1989/2121, **art. 2(2)**
- F561** Words in s. 97(1)(b) substituted (2.3.2016) by The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016 (S.I. 2016/248), regs. 1(2), **4(2)(c)**
- F562** Words in s. 97(1)(b) inserted (31.12.2020) by The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(3), **35(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F563** Words substituted by S.I. 1989/2121, **art. 2(2)**
- F564** S. 97(1A) inserted by S.I. 1989/2121, **art. 2(3)**
- F565** Words in s. 97(1A) substituted (2.3.2016) by The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016 (S.I. 2016/248), regs. 1(2), **4(3)**
- F566** "(a)" inserted by S.I. 1989/2121, **art. 2(4)**
- F567** Words in s. 97(2) omitted (26.3.2019) by virtue of The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(2), **4(c)** (with reg. 114)
- F568** Words in s. 97(2) substituted (2.3.2016) by The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016 (S.I. 2016/248), regs. 1(2), **4(3)**
- F569** Words in s. 97(3)(b) substituted (2.3.2016) by The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016 (S.I. 2016/248), regs. 1(2), **4(4)**
- F570** Words in s. 97(4)(c) substituted (2.3.2016) by The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016 (S.I. 2016/248), regs. 1(2), **4(5)**
- F571** S. 97(4A) inserted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **2(4)**
- F572** Words in s. 97(4A)(b) substituted (2.3.2016) by The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016 (S.I. 2016/248), regs. 1(2), **4(6)(a)**
- F573** Words in s. 97(4A)(c) substituted (2.3.2016) by The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016 (S.I. 2016/248), regs. 1(2), **4(6)(b)**
- F574** S. 97(4B)-(4D) inserted (2.3.2016) by The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016 (S.I. 2016/248), regs. 1(2), **4(7)**
- F575** Words in s. 97(4B) substituted (31.12.2020) by The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(3), **35(4)**; 2020 c. 1, Sch. 5 para. 1(1)
- F576** Words in s. 97(5) substituted (2.3.2016) by The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016 (S.I. 2016/248), regs. 1(2), **4(8)**
- F577** Words in s. 97(6) substituted (2.3.2016) by The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016 (S.I. 2016/248), regs. 1(2), **4(9)**
- F578** Words in s. 97(6) substituted (5.2.2008) by The Passenger and Goods Vehicles (Recording Equipment) (Downloading and Retention of Data) Regulations 2008 (S.I. 2008/198), regs. 1(1), **4(b)**
- F579** Words in s. 97(6) inserted (26.3.2019) by The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(2), **4(d)**

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- F580** Words in s. 97(7) inserted (24.10.2019) by The Passenger and Goods Vehicles (Tachographs) (Amendment etc.) Regulations 2019 (S.I. 2019/1379), regs. 1, **4(3)(a)**
- F581** Words in s. 97(7) inserted (31.12.2020) by The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(3), **35(5)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F582** Words in s. 97(7) substituted (2.3.2016) by The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016 (S.I. 2016/248), regs. 1(2), **4(10)**
- F583** Words in s. 97(7) inserted (26.3.2019) by The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(2), **4(e)(i)**
- F584** Words in s. 97(7) omitted (31.12.2020) by virtue of The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(3), **35(5)(b)** (with reg. 114); 2020 c. 1, Sch. 5 para. 1(1)
- F585** Words in s. 97(7) inserted (31.12.2020) by The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(3), **35(5)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F586** Words in s. 97(7) substituted (24.10.2019) by The Passenger and Goods Vehicles (Tachographs) (Amendment etc.) Regulations 2019 (S.I. 2019/1379), regs. 1, **4(3)(b)**
- F587** Words in s. 97(7) inserted (31.12.2020) by The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(3), **35(5)(e)**; 2020 c. 1, Sch. 5 para. 1(1)

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

- C84** S. 97 applied (with modifications) (S.) (4.1.1995) by 1994 c. 39, s. **40(7)**; S.I. 1994/2850, art. 3(a), **Sch. 2**

**[<sup>F588</sup>97Z] Anstallation and use of recording equipment: AETR requirements**

- (1) No person shall use, or cause or permit to be used, a vehicle to which this section applies—
  - (a) unless there is in the vehicle recording equipment which—
    - (i) has been installed in accordance with the AETR;
    - (ii) complies with the AETR (including the relevant Appendices to the Annex to the AETR); and
    - (iii) is being used as provided by Articles 10 to 13 of the Annex to the AETR; or
  - (b) in which there is recording equipment which has been repaired (whether before or after installation) otherwise than in accordance with the AETR.
- (2) A person who contravenes subsection (1) shall be liable on summary conviction—
  - (a) in England and Wales, to a fine;
  - (b) in Scotland, to a fine not exceeding level 5 on the standard scale.
- (3) A person shall not be liable to be convicted for contravention of subsection (1) of this section if the person proves to the court that the person neither knew nor ought to have known that the recording equipment had not been installed or repaired, as the case may be, in accordance with the AETR.
- (4) A person shall not be liable to be convicted for contravention of subsection (1)(a) if the person proves to the court that the vehicle in question was proceeding to a place where recording equipment which would comply with the AETR was to be installed in the vehicle in accordance with the AETR.
- (5) A person shall not be liable to be convicted for contravention of subsection (1)(a) by reason of the recording equipment installed in the vehicle in question not being in working order if the person proves to the court that—

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- (a) it had not become reasonably practicable for the equipment to be repaired by an approved fitter or workshop; and
  - (b) the requirements of Article 13(2)(a) of the Annex to the AETR were being complied with.
- (6) A person shall not be liable to be convicted for contravention of subsection (1)(a) by reason of any seal on the recording equipment installed in the vehicle in question not being intact if the person proves to the court that—
  - (a) the breaking or removal of the seal could not have been avoided;
  - (b) it had not become reasonably practicable for the seal to be replaced by an approved fitter or workshop; and
  - (c) in all other respects the equipment was being used as provided by Articles 10 to 13 of the Annex to the AETR.
- (7) A person shall not be liable to be convicted for contravention of subsection (1)(a) by reason of the driver card not being used with the recording equipment installed in the vehicle in question if the person proves to the court that—
  - (a) the driver card was damaged, malfunctioning, lost or stolen;
  - (b) the requirements of Articles 12(1) and 13(2) and (3) of the Annex to the AETR were being complied with; and
  - (c) in all other respects the recording equipment was being used as provided by Articles 10 to 13 of the Annex to the AETR.
- (8) Where a person (“the driver”)—
  - (a) in the course of the driver's employment, uses a vehicle in contravention of subsection (1), and
  - (b) is liable to be convicted for the contravention of that subsection in respect of that use,the employer also commits an offence and shall be liable on summary conviction to a fine.
- (9) A person shall not be liable to be convicted under subsection (8) in respect of the use of a vehicle if the requirements of Article 11(1) to (3) of the AETR and Article 11(1) of the Annex to the AETR were complied with in relation to that use.
- (10) For the purposes of this section recording equipment is used as provided by Articles 10 to 13 of the Annex to the AETR if, and only if, the circumstances of its use are such that each requirement of those Articles is complied with.
- (11) This section applies at any time to any vehicle to which this Part of this Act applies if, at that time, the AETR requires recording equipment to be installed and used in that vehicle; and in this section and sections 97B to 97G of this Act (so far as those sections relate to the AETR) any expression which is also used in the AETR has the same meaning as in the AETR.
- (12) In this Part of this Act—
  - “AETR” means the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1st July 1970 (as applied by Article 2(3) of the Community Drivers' Hours Regulation);
  - “the relevant Appendices” to the Annex to the AETR—
    - (a) in the case of a vehicle put into service for the first time before 16th June 2010 means—
      - (i) either Appendix 1 or Appendix 1B to that Annex; and

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- (ii) Appendix 2 to that Annex; and
- (b) in the case of a vehicle put into service for the first time on or after that date means—
  - (i) Appendix 1B to that Annex; and
  - (ii) Appendix 2 to that Annex.

#### Textual Amendments

**F588** Ss. 97ZA-97ZC inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), 5

### 97ZB Supply of recording equipment which is not type-approved

- (1) A person commits an offence if the person supplies, as recording equipment which complies with the EU Tachographs Regulation or the AETR, recording equipment in respect of which no appropriate type-approval certificate is in force.
- (2) It is a defence to show that—
  - (a) the recording equipment was supplied for export from Great Britain,
  - (b) the person had reasonable cause to believe that the recording equipment would not be installed in a vehicle used on a road in Great Britain or would not be so installed until an appropriate type-approval certificate was in force, or
  - (c) the person had reasonable cause to believe that the recording equipment would only be installed in a vehicle which was not required under the relevant instrument to have recording equipment installed in it.
- (3) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) Nothing in this section affects the validity of a contract or any rights arising under or in relation to a contract.
- (5) In this section—
 

“appropriate type-approval certificate” means—

  - (a) in relation to recording equipment supplied as complying with the EU Tachographs Regulation, a type-approval certificate—
    - (i) issued under the Motor Vehicles (Type Approval) Regulations 1980 and the EU Tachographs Regulation, or
    - (ii) <sup>[F589]</sup>issued under the equivalent EU Regulation;
  - (b) in relation to recording equipment supplied as complying with the AETR, a type approval certificate—
    - (i) issued under the Motor Vehicles (Type Approval) Regulations 1980 and the AETR, or
    - (ii) issued in <sup>[F590]</sup>another contracting country] under the AETR;

<sup>[F591]</sup>“the equivalent EU Regulation” has the meaning given by section 97(7);

“relevant instrument”—

  - (a) in relation to recording equipment supplied as complying with the EU Tachographs Regulation, means that Regulation;

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- (b) in relation to recording equipment supplied as complying with the AETR, means the AETR;  
“supplies” includes—
  - (a) sells;
  - (b) offers to sell or supply;
  - (c) exposes for sale.

**Textual Amendments**

- F588** Ss. 97ZA-97ZC inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **5**
- F589** Words in s. 97ZB(5) substituted (31.12.2020) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(3), **36(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F590** Words in s. 97ZB(5) substituted (31.12.2020) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(3), **36(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F591** Words in s. 97ZB(5) inserted (31.12.2020) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(3), **36(c)**; 2020 c. 1, Sch. 5 para. 1(1)

**97ZC Recording equipment system elements: security vulnerabilities**

- (1) A person commits an offence if—
  - (a) the person is a manufacturer of a vehicle unit, motion sensor or tachograph card for which a type-approval certificate has been issued under the Motor Vehicles (Type Approval) Regulations 1980 and the EU Tachographs Regulation,
  - (b) the person knows that security vulnerabilities have been detected for elements already on the market, as mentioned in Article 20(3) of the EU Tachographs Regulation, and
  - (c) the person fails to inform the Secretary of State that the security vulnerabilities have been detected.
- (2) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.]

**Textual Amendments**

- F588** Ss. 97ZA-97ZC inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **5**

**<sup>F592</sup>97A Provisions supplementary to section 97.**

**Textual Amendments**

- F592** S. 97A omitted (5.2.2008) by virtue of [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), **4(c)**

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### [<sup>F593</sup>97A] **Forgery, etc of seals on recording equipment**

- (1) A person who, with intent to deceive, forges, alters or uses any seal on recording equipment installed in, or designed for installation in, a vehicle to which section 97 [<sup>F594</sup>or 97ZA] of this Act applies, shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above shall be liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (3) In the application of this section to England and Wales a person “forges” a seal if he makes a false seal in order that it may be used as genuine.]

#### **Textual Amendments**

**F593** S. 97AA inserted (23.11.1989) by [S.I. 1989/2121](#), arts. 1, 3

**F594** Words in s. 97AA(1) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), 6

### [<sup>F595</sup>97B]

- (1) Where recording equipment is installed in a vehicle to which this Part of this Act applies, any record produced by means of the equipment shall, in any proceedings under this Part of this Act, be evidence, and in Scotland sufficient evidence, of matters appearing from the record.
- [<sup>F596</sup>(2) Any entry made on a record sheet or printout by a driver for the purposes of—
  - (a) Article 34(1), (3), (4) or (6) or 37(2) of the EU Tachographs Regulation, or
  - (b) Article 12(1), (2) or (5) or 13(2)(a) of the Annex to the AETR,
 shall, in any proceedings under this Part of this Act, be evidence, and in Scotland sufficient evidence, of the matters appearing from that entry.]]

#### **Textual Amendments**

**F595** Ss. 97, 97A, 97B substituted for s. 97 by [S.I. 1979/1746](#), [reg. 2](#)

**F596** [S. 97B\(2\)](#) substituted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), 7

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

**C85** S. 97B applied (with modifications) (4.1.1995) by [1994 c. 39](#), [s. 40\(7\)](#) (with [s. 7\(2\)](#)); [S.I. 1994/2850](#), [art. 3\(a\)](#), [Sch. 2](#)

### [<sup>F597</sup>97C] **Delivery of record sheets and other documents**

- (1) This section applies to the following documents—
  - (a) record sheets;
  - (b) manual records and printouts made in accordance with the [<sup>F598</sup>EU Tachographs Regulation][<sup>F599</sup>or the AETR].
- (2) If such a document relates to a person in his capacity as the driver of a vehicle to which section 97 [<sup>F600</sup>or 97ZA] applies, he must before the end of the delivery period



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deliver the document to the transport undertaking to whose orders he was subject in driving the vehicle.

- (3) The delivery period is the period of 42 days starting on the day after the latest date to which the document relates.
- (4) A person who without reasonable excuse fails to comply with subsection (2) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (5) If a transport undertaking fails without reasonable excuse to secure that each driver subject to its orders complies with subsection (2), in respect of documents relating to him in his capacity as such a driver, it is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) If a person is subject to the orders of two or more transport undertakings in driving a vehicle during a period to which a document relates—
  - (a) subsection (2) has effect as if it were a requirement to deliver that document to the undertaking to whose orders he was first subject in driving the vehicle during that period;
  - (b) subsection (5), in relation to that document, applies only to the undertaking to whose orders he was first subject in driving the vehicle during that period.]

#### Textual Amendments

- F597** Ss. 97C-97H inserted (5.2.2008) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), **2**
- F598** Words in s. 97C(1)(b) substituted (2.3.2016) by [The Passenger and Goods Vehicles \(Tachographs\) \(Amendment\) Regulations 2016 \(S.I. 2016/248\)](#), regs. 1(2), **6**
- F599** Words in s. 97C(1)(b) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **8(a)**
- F600** Words in s. 97C(2) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **8(b)**

#### [<sup>F597</sup>97D. Vehicle units: downloading data

- (1) This section applies where a transport undertaking is required by article 10 of the Community Drivers' Hours Regulation [<sup>F601</sup>or article 11(2)(b) of the Annex to the AETR] to ensure that data is downloaded from a vehicle unit in a vehicle.
- (2) The undertaking must ensure that relevant data is downloaded from the unit not later than the end of the download period if—
  - (a) it controls the use of the vehicle throughout that period, and
  - (b) it uses the vehicle at some point during that period.
- (3) The download period begins and ends as set out in the following table—

<i>Case</i>	<i>Download period begins</i>	<i>Download period ends</i>
1. The undertaking has not previously downloaded data from the unit under this section	On the first day after the commencement of this section on which the undertaking—	On the earlier of— <ol style="list-style-type: none"><li>(a) the expiry of the period of [<sup>F603</sup>90 days] starting on</li></ol>

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<i>Case</i>	<i>Download period begins</i>	<i>Download period ends</i>
	(a) controls the use of the vehicle, and	the first day of the download period;
	(b) is required by article 10 <sup>F602</sup> of the Community Drivers' Hours Regulation or article 11(2)(b) of the Annex to the AETR] to ensure that data is downloaded from the unit	(b) any downloading of the data before the expiry of that period

2. The undertaking uses the vehicle during the period of <sup>F603</sup>90 days] starting on the day after the last downloading under this section

3. The undertaking does not use the vehicle during the period of <sup>F603</sup>90 days] starting on the day after the last downloading under this section

- (4) The undertaking must ensure that all relevant data is downloaded from the unit—
- (a) immediately before transferring control of the use of the vehicle to another person;
  - (b) without delay upon permanently removing the unit from service in the vehicle;
  - (c) without delay upon becoming aware that the unit is malfunctioning;
  - (d) without delay in any circumstances such that the imminent erasure of the data by the unit, in the normal course of its operations, is reasonably foreseeable.
- (5) But subsection (4)(c) does not apply if because of the malfunctioning of the unit it is impossible to download the data.
- (6) For the purposes of this section “relevant data” means any data recorded by the vehicle unit in a vehicle, other than detailed speed data.
- (7) For the purposes of this section and section 97E an undertaking controls the use of a vehicle during any period in which it may determine when, by whom and for what purpose the vehicle may be driven.
- (8) In this section and sections 97E to 97G, “downloaded” is to be construed in accordance with the definition of “downloading” in <sup>F604</sup>Article 2(2)(n) of the EU Tachographs Regulation].]

#### Textual Amendments

**F597** Ss. 97C-97H inserted (5.2.2008) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), 2

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- F601** Words in s. 97D(1) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **9(a)**
- F602** Words in s. 97D(3) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **9(b)**
- F603** Words in s. 97D(3) table substituted (6.4.2015) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading of Data\) Regulations 2015 \(S.I. 2015/502\)](#), regs. 1, **2(2)**
- F604** Words in s. 97D(8) substituted (2.3.2016) by [The Passenger and Goods Vehicles \(Tachographs\) \(Amendment\) Regulations 2016 \(S.I. 2016/248\)](#), regs. 1(2), **7**

### <sup>F597</sup>97E.Driver cards: downloading data

- (1) This section applies where a transport undertaking is required by article 10 of the Community Drivers' Hours Regulation [<sup>F605</sup>or article 11(2)(b) of the Annex to the AETR] to ensure that data is downloaded from a driver card issued to a driver.
- (2) The undertaking must ensure that all data is downloaded from the card not later than the end of the download period.
- (3) The download period begins and ends as set out in the following table—

<i>Case</i>	<i>Download period begins</i>	<i>Download period ends</i>
1. The undertaking has not previously downloaded data from the card under this section	On the first day after the commencement of this section on which— (a) the driver drives for the undertaking, and (b) the undertaking is required by article 10 [ <sup>F606</sup> of the Community Drivers' Hours Regulation or article 11(2)(b) of the Annex to the AETR] to ensure that data is downloaded from the card	On the earlier of— (a) the expiry of the period of 28 days starting on the first day of the download period; (b) any downloading of the data before the expiry of that period
2. The undertaking has previously downloaded data from the card under this section	On the first day on which the driver drives for the undertaking after the last downloading under this section	

- (4) The undertaking must ensure that the data is downloaded from the card—
  - (a) immediately before the driver ceases to be employed by the undertaking as a driver, or otherwise to carry out work for the undertaking as a driver;
  - (b) without delay upon becoming aware that the card has been damaged or is malfunctioning;
  - (c) without delay in any circumstances such that the imminent erasure of the data, in the normal course of use of the card, is reasonably foreseeable;
  - (d) if it is not possible to do so other than by means of a vehicle unit installed in a vehicle, immediately before ceasing to control the use of that vehicle.

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- (5) But subsection (4)(b) does not apply if because of the damage to the card or its malfunctioning it is impossible to download the data.]

#### Textual Amendments

- F597** Ss. 97C-97H inserted (5.2.2008) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), **2**
- F605** Words in s. 97E(1) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **10(a)**
- F606** Words in s. 97E(3) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **10(b)**

### [<sup>F597</sup>97F. Downloading data: requirement imposed by an officer

- (1) This section applies where—
- (a) an officer has reason to believe that an offence under this Part of this Act or under the Traffic Acts has been committed in respect of the use of a vehicle, and
  - (b) article 10(5) of the Community Drivers' Hours Regulation [<sup>F607</sup>or article 11(2)(b) of the Annex to the AETR] applies to a transport undertaking in respect of the vehicle unit in the vehicle or a driver card issued to a person who has driven the vehicle.
- (2) The officer may, on production if so required of his authority, require the undertaking without delay—
- (a) to download data from the vehicle unit or driver card;
  - (b) to permit him to inspect or copy the downloaded data.
- (3) In this section—
- (a) “download” is to be construed in accordance with the definition of “downloading” in [<sup>F608</sup>Article 2(2)(n) of the EU Tachographs Regulation];
  - (b) “the Traffic Acts” has the meaning given in section 192(1) of the Road Traffic Act 1988.]

#### Textual Amendments

- F597** Ss. 97C-97H inserted (5.2.2008) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), **2**
- F607** Words in s. 97F(1)(b) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **11**
- F608** Words in s. 97F(3) substituted (2.3.2016) by [The Passenger and Goods Vehicles \(Tachographs\) \(Amendment\) Regulations 2016 \(S.I. 2016/248\)](#), regs. 1(2), **7**

### [<sup>F597</sup>97G. Downloading and retaining data: offences

- (1) A transport undertaking commits an offence if, without reasonable excuse, it fails to comply with section 97D or 97E, or with a requirement imposed under section 97F.
- (2) A transport undertaking commits an offence if, without reasonable excuse, it fails to comply with any requirement imposed by article 10 of the Community Drivers' Hours

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Regulation [<sup>F609</sup>or article 11(2)(b) of the Annex to the AETR] in respect of the retention of data downloaded in accordance with section 97D to 97F.

- (3) An offence under this section is punishable on summary conviction with a fine not exceeding level 5 on the standard scale.]

#### Textual Amendments

**F597** Ss. 97C-97H inserted (5.2.2008) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), **2**

**F609** Words in s. 97G(2) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **12**

#### [<sup>F597</sup>97H. Access to downloaded data

- (1) An officer may, on production if so required of his authority, require a person to make readily accessible to him, either on or from premises occupied or controlled by the person in question, that person's retained data.
- (2) Any person who without reasonable excuse fails to comply with a requirement under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) For the purposes of subsection (1), data is a person's "retained data" if he is required by article 10 of the Community Drivers' Hours Regulation [<sup>F610</sup>or article 11(2)(b) of the Annex to the AETR] to retain it for at least 12 months following its recording.]

#### Textual Amendments

**F597** Ss. 97C-97H inserted (5.2.2008) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), **2**

**F610** Words in s. 97H(3) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **13**

## 98 Written records.

- (1) The Minister may make regulations—
- for requiring drivers to keep, and employers of employee-drivers to cause to be kept, in such books as may be specified in the regulations records with respect to such matters relevant to the enforcement of this Part of this Act as may be so specified; and
  - for requiring owner-drivers and the employers of employee-drivers to maintain such registers as may be so specified with respect to any such books as aforesaid which are in their possession or in that of any employee-drivers in their employment.
- (2) Regulations under this section may contain such supplementary and incidental provisions [<sup>F611</sup>including provisions supplementary and incidental to the requirements of [<sup>F612</sup>the applicable Community rules] as to [<sup>F613</sup>books, records or documents]] as the Minister thinks necessary or expedient, including in particular provisions—
- specifying the person or persons from whom books and registers required for the purposes of the regulations [<sup>F611</sup>or of [<sup>F612</sup>the applicable Community rules]]

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are to be obtained and, if provision is made for them to be obtained from the Minister, charging a fee for their issue by him (which shall be payable into the Consolidated Fund);

- (b) as to the form and manner of making of entries in such books and registers;
- (c) as to the issue by and return to the employers of employee-drivers of books required to be kept by the latter for the purposes of the regulations;
- (d) requiring any book in current use for the purposes of the regulations to be carried on, or by the driver of, any vehicle, as to the preservation of any books and registers used for those purposes, and otherwise as to the manner in which those books and registers are to be dealt with;
- (e) for exemptions from all or any of the requirements of the regulations in respect of drivers of small goods vehicles as defined in section 103(6) of this Act and for other exemptions from all or any of those requirements.

[<sup>F614</sup>(2A) The requirements of regulations made under this section shall not apply as respects the driving of—

[<sup>F615</sup>(a) a vehicle to which section 97 of this Act applies and [<sup>F616</sup>which is installed with recording equipment complying with [<sup>F617</sup>the EU Tachographs Regulation (including the relevant [<sup>F618</sup>technical specifications], within the meaning of that section);]]

[<sup>F619</sup>(b) a vehicle to which section 97ZA applies and which is installed with recording equipment complying with the AETR (including the relevant Appendices to the Annex, within the meaning of that section).]]

(3) Subject to the provisions of any regulations made by the Minister, [<sup>F620</sup>a traffic commissioner] may dispense with the observance by any employee-driver or his employer, or by any owner-driver, of any requirement imposed under this section, either generally or in such circumstances or to such extent as the [<sup>F621</sup>commissioner thinks] fit, but the traffic [<sup>F622</sup>commissioner] shall not grant such a dispensation unless satisfied that it is not reasonably practicable for the requirement dispensed with to be observed.

(4) [<sup>F623</sup>Any person who—

- (a) contravenes any regulations made under this section, or
- (b) contravenes, whether in the United Kingdom, [<sup>F624</sup>an EU member State][<sup>F625</sup>or another contracting country], any requirement as to books, records or documents of the applicable Community rules,

shall be liable on summary conviction] to a fine not exceeding [<sup>F626</sup>level 4 on the standard scale], but the employer of an employee-driver shall not be liable to be convicted under this subsection by reason of contravening any such regulation whereby he is required to cause any records to be kept if he proved to the court that he has given proper instructions to his employees with respect to the keeping of the records and has from time to time taken reasonable steps to secure that those instructions are being carried out.

[<sup>F627</sup>(4A) A person shall not be liable to be convicted under subsection (4) of this section by reason of contravening any regulation made under this section if he proves to the court that, if the vehicle in question had been such a vehicle as is mentioned in subsection (2A) of this section, there would have been no contravention of the provisions of this Part of this Act so far as they relate to the use of such vehicles.]

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- (5) Any entry made by an employee-driver for the purposes of regulations under this section [F628 or of [F612 the applicable Community rules]] shall, in any proceedings under this Part of this Act, be admissible in evidence against his employer.

#### Textual Amendments

- F611** Words inserted by [European Communities Act 1972 \(c. 68\)](#), **Sch. 4 para. 9(2)(c)**
- F612** Words substituted by [Road Traffic \(Drivers' Ages and Hours of Work\) Act 1976 \(c. 3\)](#), **s. 2(1)(c)**
- F613** Words substituted by [Road Traffic \(Drivers' Ages and Hours of Work\) Act 1976 \(c. 3\)](#), **s. 2(1)(g)**
- F614** S. 98(2A) inserted by [S.I. 1979/1746](#), **reg. 3(1)**
- F615** Words in s. 98(2A) renumbered as reg. 98(2A)(a) (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **14(2)**
- F616** Words in s. 98(2A) substituted (5.8.2005) by [The Passenger and Goods Vehicles \(Recording Equipment\) Regulations 2005 \(S.I. 2005/1904\)](#), regs. 1(1), **4**
- F617** Words in s. 98(2A)(a) substituted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **14(3)**
- F618** Words in s. 98(2A)(a) substituted (24.10.2019) by [The Passenger and Goods Vehicles \(Tachographs\) \(Amendment etc.\) Regulations 2019 \(S.I. 2019/1379\)](#), regs. 1, **5**
- F619** S. 98(2A)(b) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **14(4)**
- F620** Words in s. 98(3) substituted (3.7.2013) by [The Local Transport Act 2008 \(Traffic Commissioners\) \(Consequential Amendments\) Order 2013 \(S.I. 2013/1644\)](#), art. 1(1), **Sch. 1** (with arts. 1(3), 2, 7)
- F621** Words substituted by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 3, **Sch. 2 Pt. II para. 1(3)**
- F622** Word substituted by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 3, **Sch. 2 Pt. II para. 1(3)**
- F623** Words in s. 98(4) substituted (31.1.2018) by [The Community Drivers Hours Offences \(Enforcement\) Regulations 2018 \(S.I. 2018/24\)](#), regs. 1, **2(3)**
- F624** Words in s. 98(4)(b) inserted (31.12.2020 immediately after the coming into force of S.I. 2019/453, Pts. 3, 4) by [The Drivers' Hours and Tachographs \(Amendment\) Regulations 2020 \(S.I. 2020/1658\)](#), regs. 1(3), **4(3)**
- F625** Words in s. 98(4)(b) substituted (31.12.2020) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(3), **37(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F626** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G** (as inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 54**)
- F627** S. 98(4A) inserted by [S.I. 1979/1746](#), **reg. 3(3)(b)**
- F628** Word inserted by [European Communities Act 1972 \(c. 68\)](#), **Sch. 4 para. 9(2)(a)**

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

- C86** S. 98 applied (with modifications) (S.) (4.1.1995) by [1994 c. 39](#), **s. 40(7)** (with s. 7(2)); [S.I. 1994/2850](#), art. 3(a), **Sch. 2**

## 99 Inspection of records and other documents.

- (1) An officer may, on production if so required of his authority, require any person to produce, and permit him to inspect and copy—
- (a) any book or register which that person is required by regulations under section 98 of this Act to carry or have in his possession for the purpose of making in it any entry required by those regulations or which is required under those regulations to be carried on any vehicle of which that person is the driver;

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- (b) any <sup>F629</sup> book or register which that person is required by regulations under section <sup>F629</sup> 98 of this Act to preserve;
  - <sup>F630</sup>(bb) .....
  - (c) if that person is the owner of a vehicle to which this Part of this Act applies, any other document of that person which the officer may reasonably acquire to inspect for the purpose of ascertaining whether the provisions of this Part of this Act or of regulations made thereunder have been complied with;
  - <sup>F631</sup>(d) .....  
 and that <sup>F632</sup> ..., book, register or document shall, if the officer so requires by notice in writing served on that person, be produced at the office of the traffic [<sup>F633</sup>commissioner] specified in the notice within such time (not being less than ten days) from the service of the notice as may be so specified.
- (2) An officer may, on production if so required of his authority—
- <sup>F634</sup>(a) at any time, enter any vehicle to which this Part of this Act applies and inspect that vehicle and any recording equipment installed in it and inspect and copy any record sheet on the vehicle on which a record has been produced by means of the equipment or an entry has been made;]
  - (b) at any time which is reasonable having regard to the circumstances of the case, enter any premises on which he has reason to believe that such a vehicle is kept or that any such [<sup>F635</sup>record sheets], books, registers or other documents as are mentioned in subsection (1) of this section are to be found, and inspect any such vehicle, and inspect and copy any such record [<sup>F636</sup>sheet], book, register or document, which he finds there.
- (3) For the purpose of exercising his powers under subsection (2)(a) and, in respect of a document carried on, or by the driver of, a vehicle, under subsection (1)(a) <sup>F637</sup> ... of this section, an officer may detain the vehicle in question during such time as is required for the exercise of that power.
- (4) Any person who—
- (a) fails to comply with any requirement under subsection (1) of this section; or
  - (b) obstructs an officer in the exercise of his powers under subsection (2) or (3) of this section,
- shall be liable on summary conviction to a fine not exceeding [<sup>F638</sup>level 3 on the standard scale].
- <sup>F639</sup>(4A) A person shall not be liable to be convicted under subsection (4) of this section by reason of failing to comply with any requirement under subsection (1)(a) or (b) of this section if he proves to the court that, if the vehicle in question had been such a vehicle as is mentioned in section 98(2A) of this Act, there would have been no contravention of the provisions of this Part of this Act so far as they relate to the use of such vehicles.]
- (5) Any person who makes, or causes to be made, <sup>F640</sup> ...any entry in a [<sup>F641</sup>book, register or document kept or carried] for the purposes of regulations under section 98 thereof <sup>F640</sup> ... which he knows to be false or, with intent to deceive, alters or causes to be altered any such record or entry shall be liable—
- (a) on summary conviction, to a fine not exceeding £200;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years.
- (6) If an officer has reason to believe that an offence under subsection (5) of this section has been committed in respect of any record or document inspected by him under this



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- section, he may seize that record or document; and where a record or document is seized as aforesaid and within six months of the date on which it was seized no person has been charged since that date with an offence in relation to that record or document under that subsection and the record or document has not been returned to the person from whom it was taken, a magistrate's court shall, on an application made for the purpose by that person or by an officer, make such order respecting the disposal of the record or document and award such costs as the justice of the case may require.
- (7) Any proceedings in Scotland under subsection (6) of this section shall be taken by way of summary application in the sheriff court; and in the application of that subsection to Scotland references to costs shall be construed as references to expenses.
- (8) [<sup>F642</sup>In this Part of this Act] "officer" means [<sup>F643</sup>an examiner appointed under section 66A of the Road Traffic Act 1988] and any person authorised for the purposes [<sup>F644</sup>of this Part] by [<sup>F645</sup>a traffic commissioner].
- (9) The powers conferred by [<sup>F646</sup>this Part of this Act on an officer] shall be exercisable also by a police constable, who shall not, if wearing uniform, be required to produce any authority.
- (10) In this section references to the inspection and copying of any record produced by means of [<sup>F647</sup>recording equipment installed] in a vehicle include references to the application to the record of any process for eliciting the information recorded thereby and to taking down the information elicited from it.
- [<sup>F648</sup>(11) Subsections (1) to (7) and (10) do not apply in respect of vehicles to which section 97 [<sup>F649</sup>or 97ZA] of this Act applies.]

#### Textual Amendments

- F629** Words repealed by S.I. 1979/1746, reg. (3)(3)(a)
- F630** S. 99(1)(bb) omitted (5.8.2005) by virtue of The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(2)(a)**
- F631** S. 99(1)(d) omitted (5.8.2005) by virtue of The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(2)(b)**
- F632** Words in s. 99(1) omitted (5.8.2005) by virtue of The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(2)(c)**
- F633** Word substituted by Transport Act 1985 (c. 67, SIF 126), s.3, **Sch. 2 Pt. II para. 1(4)**
- F634** S. 99(2)(a) substituted by S.I. 1979/1746, **reg. 3(4)(a)**
- F635** Words substituted by S.I. 1979/1746, **reg. 3(4)(b)**
- F636** Word inserted by S.I. 1979/1746, **reg. 3(4)(b)**
- F637** Words in s. 99(3) omitted (5.8.2005) by virtue of The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(3)**
- F638** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F, 289G** (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)
- F639** S. 99(4A) inserted by S.I. 1979/1746, **reg. 3(5)**
- F640** Words in s. 99(5) omitted (5.8.2005) by virtue of The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(4)**
- F641** Words substituted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(h)**
- F642** Words in s. 99(8) substituted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(5)(a)**
- F643** Words in s. 99(8) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40), s. 48, **Sch. 4 para.2**; S.I. 1992/1286, **art. 2**, Sch.

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- F644** Words in s. 99(8) substituted (5.8.2005) by [The Passenger and Goods Vehicles \(Recording Equipment\) Regulations 2005 \(S.I. 2005/1904\)](#), regs. 1(1), **5(5)(b)**
- F645** Words in s. 99(8) substituted (3.7.2013) by [The Local Transport Act 2008 \(Traffic Commissioners\) \(Consequential Amendments\) Order 2013 \(S.I. 2013/1644\)](#), art. 1(1), **Sch. 1** (with arts. 1(3), 2, 7)
- F646** Words in s. 99(9) substituted (5.8.2005) by [The Passenger and Goods Vehicles \(Recording Equipment\) Regulations 2005 \(S.I. 2005/1904\)](#), regs. 1(1), **5(6)**
- F647** Words in s. 99(10) substituted (5.8.2005) by [The Passenger and Goods Vehicles \(Recording Equipment\) Regulations 2005 \(S.I. 2005/1904\)](#), regs. 1(1), **5(7)**
- F648** S. 99(11) inserted (5.8.2005) by [The Passenger and Goods Vehicles \(Recording Equipment\) Regulations 2005 \(S.I. 2005/1904\)](#), regs. 1(1), **5(8)**
- F649** Words in s. 99(11) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **15**

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

- C87** S. 99 amended by [Road Traffic \(Foreign Vehicles\) Act 1972 \(c. 27\)](#), s. 1, **Sch. 1**
- C88** S. 99 applied (with modifications) (S.) (4.1.1995) by [1994 c. 39, s. 40\(7\)](#) (with s. 7(2)); [S.I. 1994/2850](#), art. 3(a), **Sch. 2**

#### Commencement Information

- I1** S. 99(1)-(9) in force at 1.9.2003 in so far as not already in force by [S.I. 2003/1985](#), **art. 2**
- I2** S. 99(10) in force at 1.9.2003 by [S.I. 2003/1985](#), **art. 2**

### <sup>F650</sup>99Z **Inspection of records and other documents and data relating to recording equipment**

- (1) An officer may, on production if so required of his authority, require any person to produce, and permit him to inspect, remove, retain and copy—
- if that person is the owner of a vehicle to which section 97 <sup>F651</sup>or 97ZA] applies, any document of that person which the officer may reasonably require to inspect for the purpose of ascertaining whether the provisions of this Part of this Act have been complied with;
  - any record sheet or hard copy of electronically stored data which that person is required by the <sup>F652</sup>EU Tachographs Regulation]<sup>F653</sup>or the AETR] to retain or to be able to produce;
  - any book, register or other document required by the applicable Community Rules or which the officer may reasonably require to inspect for the purpose of ascertaining whether the requirements of the applicable Community rules have been complied with.
- (2) An officer may, on production if so required of his authority, require any person—
- to produce and permit him to inspect any driver card which that person is required by <sup>F654</sup>Article 36 of the EU Tachographs Regulation]<sup>F655</sup>or Article 12(7)(a) or (b) of the Annex to the AETR] to be able to produce; and
  - to permit the officer to copy the data stored on the driver card (and to remove temporarily the driver card for the purpose of doing so) and to remove and retain the copy.
- (3) If the officer so requires by notice in writing, anything that a person is required to produce under subsection (1) or (2) of this section shall, instead of being produced when the requirement under those subsections is imposed, be produced at an address specified in the notice, within such time (not being less than ten days) from the service of the notice as is so specified.

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- (4) Where a notice is served under subsection (3) of this section, the officer may exercise his powers under this section at the place specified in the notice.
- (5) In this Part of this Act any reference to copying data stored on a driver card or on digital recording equipment includes a reference to making a hard copy or an electronic copy of the data (and any reference to copies of data shall be construed accordingly).
- (6) In this Part of this Act—
- “digital recording equipment” means recording equipment that complies with <sup>F656</sup>the relevant provision];
  - “driver card” has the meaning given <sup>F657</sup>by the relevant provision];
  - “electronic copy” of data means a copy of data stored electronically together with the data’s digital signature (within the meaning of <sup>F658</sup>the relevant provision]);
  - “hard copy” in relation to data stored electronically means a printed out version of the data.

- [ In subsection (6) “relevant provision” means—
- <sup>F659</sup>(7) <sup>F660</sup>(a) in relation to a vehicle to which section 97 applies—
- (i) where the vehicle was put into service for the first time before the date on which the Passenger and Goods Vehicles (Tachographs) (Amendment etc.) Regulations 2019 come into force—
    - (aa) Annex IB of [Council Regulation \(EEC\) No 3821/85](#) for as long as preserved and applied by Article 46 of the EU Tachographs Regulation, or
    - (bb) Annex 1C to Commission Implementing Regulation (EU) 2016/799; and
  - (ii) where the vehicle was put into service for the first time on or after the date on which the Passenger and Goods Vehicles (Tachographs) (Amendment etc.) Regulations 2019 come into force, Annex 1C to Commission Implementing Regulation (EU) 2016/799;]
- (b) in relation to a vehicle to which section 97ZA applies, Appendix 1B to the Annex to the AETR.]

#### <sup>F650</sup>99ZB Power of entry

- (1) An officer may, on production if so required of his authority, at any time enter any vehicle to which section 97 <sup>F661</sup>or 97ZA] of this Act applies in order to inspect that vehicle and any recording equipment in or on it.
- (2) Where any officer enters any vehicle under subsection (1) of this section he may—
- (a) inspect, remove, retain and copy any record sheet that he finds there on which a record has been produced by means of analogue recording equipment or on which an entry has been made;
  - (b) inspect, remove, retain and copy any hard copy of data that he finds there which was stored on any digital recording equipment or on a driver card;
  - (c) inspect, remove, retain and copy any other document that he finds there which the officer may reasonably require to inspect for the purpose of ascertaining whether the requirements of the applicable Community rules have been complied with;
  - (d) inspect any driver card that he finds there, copy the data stored on it (using any digital recording equipment in or on the vehicle or temporarily removing

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- the driver card for the purpose of copying the data) and remove and retain the copy;
- (e) copy data stored on any digital recording equipment that is in or on the vehicle and remove and retain that copy;
  - (f) inspect any recording equipment that is in or on the vehicle and, if necessary for the purposes of the inspection, remove it from the vehicle;
  - (g) retain the recording equipment as evidence if he finds that it has been interfered with;
  - (h) inspect the vehicle for the purpose of ascertaining whether there is in or on the vehicle any device which is capable of interfering with the proper operation of any recording equipment in or on the vehicle;
  - (i) inspect anything in or on the vehicle which he believes is such a device and, if necessary for the purpose of the inspection, remove it from the vehicle;
  - (j) retain the device as evidence if he finds that it is capable of interfering with the proper operation of the recording equipment.
- (3) Where any officer who is an examiner appointed under section 66A of the Road Traffic Act 1988, or any constable, enters any vehicle under subsection (1) of this section, he may, if he has reason to believe that—
- (a) any recording equipment in or on the vehicle has been interfered with so as to affect its proper operation, or
  - (b) there is in or on the vehicle any device which is capable of interfering with the proper operation of any recording equipment in or on the vehicle,
- require the driver or operator of the vehicle to take it to an address specified by the officer or constable for the purposes of enabling an inspection of the recording equipment, the vehicle or any device in or on it to be carried out.
- (4) An officer may, on production if so required of his authority, at any time which is reasonable having regard to the circumstances of the case, enter any premises on which he has reason to believe that—
- (a) a vehicle to which section 97 [<sup>F662</sup>or 97ZA] of this Act applies is kept;
  - (b) any such document as is mentioned in section 99ZA(1) of this Act is to be found;
  - (c) any driver card or copy of data previously stored on a driver card or on recording equipment is to be found; or
  - (d) any digital recording equipment is to be found.
- (5) Where any officer enters any premises under subsection (4) of this section he may—
- (a) inspect any vehicle which he finds there and to which section 97 [<sup>F663</sup>or 97ZA] of this Act applies;
  - (b) inspect, remove, retain and copy any such document as is mentioned in section 99ZA(1) of this Act that he finds there;
  - (c) make a copy of any such copy of data as is mentioned in subsection (4)(c) of this section that he finds there, and remove and retain the copies he makes;
  - (d) inspect any driver card that he finds there, copy the data stored on it (using any digital recording equipment on the premises or temporarily removing the driver card for the purpose of copying the data) and remove and retain the copy;
  - (e) copy data stored on any digital recording equipment that he finds there and remove and retain that copy;

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- (f) inspect any recording equipment that he finds there and, if necessary for the purposes of inspection, remove it from the premises;
  - (g) retain any such recording equipment as evidence if he finds that it has been interfered with;
  - (h) inspect anything that he finds there which he believes is a device capable of interfering with the proper operation of any recording equipment and, if necessary for the purpose of the inspection, remove it from the premises;
  - (i) retain any such device as evidence if he finds that it is capable of interfering with the proper operation of recording equipment.
- (6) For the purposes of—
- (a) exercising any of his powers under this section in relation to a vehicle or anything found in or on a vehicle, or
  - (b) exercising any of his powers under section 99ZA(1) or (2) of this Act in respect of a document or driver card carried by the driver of a vehicle,
- an officer may detain the vehicle during such time as is required for the exercise of that power.
- (7) If—
- (a) at the time when a requirement is imposed under subsection (3) of this section the vehicle is more than five miles from the address specified by the officer or constable to which the vehicle is to be taken; and
  - (b) the [<sup>F664</sup>relevant instrument] is found not to have been contravened in relation to the recording equipment, the vehicle or any device in or on it;
- the relevant person must pay, in respect of loss occasioned, such amount as in default of agreement may be determined by a single arbitrator (in Scotland, arbiter) agreed upon by the parties or, in default of agreement, appointed by the Secretary of State.
- [<sup>F665</sup>(8) In subsection (7) of this section—
- “relevant person” means—
  - (a) if the requirement was imposed by an examiner appointed under section 66A of the Road Traffic Act 1988, the Secretary of State;
  - (b) if the requirement was imposed by a constable, the chief officer of police for the police area in which the requirement was imposed;
- “relevant instrument” means—
- (a) in relation to a vehicle to which section 97 applies, the EU Tachographs Regulation;
  - (b) in relation to a vehicle to which section 97ZA applies, the AETR.
- (9) In this Part of this Act, “analogue recording equipment” means—
- (a) in relation to a vehicle to which section 97 applies, recording equipment that complies with Annex I to the EU Tachographs Regulation;
  - (b) in relation to a vehicle to which section 97ZA applies, recording equipment that complies with Appendix 1 to Annex 1 to the AETR.]

[<sup>F650</sup>**99ZC Sections 99ZA and 99ZB: supplementary**

- (1) Where an officer makes any hard copy of data stored on a driver card or on recording equipment under section 99ZA or 99ZB of this Act he may require a person to sign the hard copy (if necessary with manual corrections) to confirm that it is a true and complete record of his activities during the period covered by it.

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- (2) Any record sheet, book, register, other document or any electronic copy of data that is retained by an officer under section 99ZA or 99ZB of this Act may only be retained—
  - (a) for six months; and
  - (b) if it is required as evidence in any proceedings, any further period during which it is so required.
- (3) In sections 99ZA and 99ZB of this Act references to the inspection and copying of any record produced by means of equipment in or on a vehicle include references to the application to the record of any process for eliciting the information recorded by it and to taking down the information elicited from it.

**[<sup>F650</sup>99ZD Offence of failing to comply with requirements or obstructing an officer**

- (1) A person commits an offence if he—
  - (a) fails without reasonable excuse to comply with any requirement imposed on him by an officer under any of sections 99ZA to 99ZC of this Act; or
  - (b) obstructs an officer in the exercise of his powers under section 99ZB or 99ZF of this Act.
- (2) A person guilty of an offence under subsection (1) of this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**[<sup>F650</sup>99ZE Offences: false records and data etc.**

- (1) A person commits an offence—
  - (a) if he makes, or causes or permits to be made, a relevant record or entry which he knows to be false;
  - (b) if, with intent to deceive, he alters, or causes or permits to be altered, a relevant record or entry;
  - (c) if he destroys or suppresses, or causes or permits to be destroyed or suppressed, a relevant record or entry; or
  - (d) if he fails without reasonable excuse to make a relevant record or entry, or causes or permits such a failure.
- (2) For the purposes of subsection (1) of this section a “relevant record or entry” is—
  - (a) any record or entry required to be made by or for the purposes of the [<sup>F666</sup>EU Tachographs Regulation][<sup>F667</sup>, the AETR or section 97 or 97ZA] of this Act; or
  - (b) any entry in a book, register or document kept or carried for the purposes of the applicable Community rules.
- (3) A person commits an offence—
  - (a) if he records or causes or permits to be recorded any data which he knows to be false on recording equipment or on a driver card;
  - (b) if he records or causes or permits to be recorded any data which he knows to be false on any hard copy of data previously stored on recording equipment or on a driver card;
  - (c) if, with intent to deceive, he alters, or causes or permits to be altered, any data stored on recording equipment or on a driver card or appearing on any copy of data previously so stored;
  - (d) if, with intent to deceive, he produces anything falsely purporting to be a hard copy of data stored on recording equipment or on a driver card;

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- (e) if he destroys or suppresses, or causes or permits to be destroyed or suppressed, any data stored in compliance with the requirements of the applicable Community rules on recording equipment or on a driver card; or
  - (f) if he fails without reasonable excuse to record any data on recording equipment or on a driver card, or causes or permits such a failure.
- (4) A person guilty of an offence under subsection (1) or (3) of this section consisting otherwise than in permitting an act or omission is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.
- (5) A person guilty of an offence under subsection (1) or (3) of this section consisting in permitting an act or omission is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) A person commits an offence if he [<sup>F668</sup>produces, distributes, installs, advertises or sells] any device—
- (a) that is designed to interfere with the proper operation of any recording equipment, or
  - (b) that is designed to enable the falsification, alteration, destruction or suppression of data stored in compliance with requirements of the applicable Community Rules on any recording equipment or driver's card.
- (7) A person commits an offence if without reasonable excuse he provides information which would assist other persons in producing any such device.
- (8) A person shall not be liable to be convicted under subsection (6) or (7) of this section if he proves to the court that he produced, supplied or installed the device, or provided information to assist a person in producing a device, for use in connection with the enforcement of the provisions of this Part of this Act.
- (9) A person guilty of an offence under subsection (6) or (7) of this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (10) For the purposes of this section, a person shall be taken to permit an act or omission if he is, or ought reasonably to be, aware of the act or omission, or of it being a likelihood, and takes no steps to prevent it.

#### <sup>F650</sup>**99ZF Power to seize documents**

- (1) If an officer has reason to believe that an offence under section 99ZE of this Act has been committed in respect of any document inspected by him under section 99ZA or 99ZB of this Act, he may seize that document.
- (2) Where a document is so seized, a magistrates' court shall, on an application made for the purpose by that person or by an officer, make such order respecting the disposal of the document and award such costs as the justice of the case may require if—
  - (a) within six months of the date on which it was seized no person has been charged since that date with an offence under section 99ZE of this Act in relation to that document; and
  - (b) the document has not been returned to the person from whom it was taken.
- (3) Any proceedings in Scotland under subsection (2) of this section shall be taken by way of summary application in the sheriff court.

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In the application of that subsection to Scotland the reference to costs shall be construed as a reference to expenses.]

#### Textual Amendments

- F650** Ss. 99ZA-99ZF inserted (5.8.2005) by [The Passenger and Goods Vehicles \(Recording Equipment\) Regulations 2005 \(S.I. 2005/1904\)](#), regs. 1(1), **6**
- F651** Words in s. 99ZA(1)(a) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **16(2)(a)**
- F652** Words in s. 99ZA(1)(b) substituted (2.3.2016) by [The Passenger and Goods Vehicles \(Tachographs\) \(Amendment\) Regulations 2016 \(S.I. 2016/248\)](#), regs. 1(2), **8(a)**
- F653** Words in s. 99ZA(1)(b) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **16(2)(b)**
- F654** Words in s. 99ZA(2)(a) substituted (2.3.2016) by [The Passenger and Goods Vehicles \(Tachographs\) \(Amendment\) Regulations 2016 \(S.I. 2016/248\)](#), regs. 1(2), **8(b)**
- F655** Words in s. 99ZA(2)(a) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **16(3)**
- F656** Words in s. 99ZA(6) substituted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **16(4)(a)**
- F657** Words in s. 99ZA(6) substituted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **16(4)(b)**
- F658** Words in s. 99ZA(6) substituted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **16(4)(c)**
- F659** S. 99ZA(7) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **16(5)**
- F660** S. 99ZA(7)(a) substituted (24.10.2019) by [The Passenger and Goods Vehicles \(Tachographs\) \(Amendment etc.\) Regulations 2019 \(S.I. 2019/1379\)](#), regs. 1, **6**
- F661** Words in s. 99ZB(1) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **17(2)**
- F662** Words in s. 99ZB(4) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **17(3)**
- F663** Words in s. 99ZB(5)(a) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **17(4)**
- F664** Words in s. 99ZB(5)(a) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **17(5)**
- F665** S. 99ZB(8)(9) substituted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **17(6)**
- F666** Words in s. 99ZE(2) substituted (2.3.2016) by [The Passenger and Goods Vehicles \(Tachographs\) \(Amendment\) Regulations 2016 \(S.I. 2016/248\)](#), regs. 1(2), **10(a)**
- F667** Words in s. 99ZE(2)(a) substituted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **18**
- F668** Words in s. 99ZE(6) substituted (2.3.2016) by [The Passenger and Goods Vehicles \(Tachographs\) \(Amendment\) Regulations 2016 \(S.I. 2016/248\)](#), regs. 1(2), **10(b)**

#### [<sup>F669</sup>99Z Power to stop

- (1) Subsection (2) applies if a vehicle appears to a stopping officer to be one to which this Part could apply.
- (2) The officer may direct the driver to stop the vehicle for the purpose of enabling a Part 6 officer to exercise powers under this Part.



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(3) In this section—

“Part 6 officer” means an officer as defined in section 99(8);

“stopping officer” means an officer appointed under section 66B of the Road Traffic Act 1988.]

#### Textual Amendments

**F669** S. 99ZG inserted (30.3.2011) by [The Road Vehicles \(Powers to Stop\) Regulations 2011 \(S.I. 2011/996\)](#), [reg. 4\(2\)](#)

### [<sup>F670</sup>99A Power to prohibit driving of vehicle.

(1) If—

- (a) the driver of a UK vehicle obstructs an authorised person in the exercise of his powers under subsection (2) or (3) of section 99 [<sup>F671</sup>or under section 99ZB] of this Act or fails to comply with any requirement made by an authorised person under subsection (1) of [<sup>F672</sup>section 99 or under any of sections 99ZA to 99ZC of this Act],
- (b) it appears to an authorised person that, in relation to a UK vehicle or its driver, there has been a contravention of any of the provisions of—
  - (i) sections 96 to 98 of this Act and any orders or regulations under those sections, or
  - (ii) the applicable Community rules,or that there will be such a contravention if the vehicle is driven on a road, or
- (c) it appears to an authorised person that an offence under section 99(5) [<sup>F673</sup>or section 99ZE] of this Act has been committed in respect of a UK vehicle or its driver,

the authorised person may prohibit the driving of the vehicle on a road either for a specified period or without limitation of time.

- (2) Where an authorised person prohibits the driving of a vehicle under this section, he may also direct the driver to remove the vehicle (and, if it is a motor vehicle drawing a trailer, also to remove the trailer) to such place and subject to such conditions as are specified in the direction; and the prohibition shall not apply to the removal of the vehicle in accordance with that direction.
- (3) On imposing a prohibition under subsection (1) of this section, the authorised person shall give notice in writing of the prohibition to the driver of the vehicle, specifying the circumstances (as mentioned in paragraph (a), (b) or (c) of that subsection) in consequence of which the prohibition is imposed and stating whether it is imposed only for a specified period (and if so specifying the period) or without limitation of time.
- (4) Any direction under subsection (2) of this section may be given—
  - (a) in the notice under subsection (3) of this section, or
  - (b) in a separate notice in writing given to the driver of the vehicle.
- (5) In this section—

“authorised person” means—

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- (a) an examiner appointed by the Secretary of State under section 66A of the <sup>M24</sup>Road Traffic Act 1988, or
  - (b) a constable authorised to act for the purposes of this section by or on behalf of a chief officer of police;
- “UK vehicle” means a vehicle registered under the <sup>M25</sup>Vehicle Excise and Registration Act 1994.

[ Schedule 4 to the Road Safety Act 2006 makes provision about the immobilisation of <sup>F674</sup>(6) vehicles the driving of which has been prohibited under subsection (1) of this section and about their removal and disposal.]]

#### Textual Amendments

- F670** Ss. 99A-99C inserted (1.2.2001) by 2000 c. 38, s. 266; S.I. 2001/57, art. 3, Sch. 2 Pt. I (subject to transitional provision and saving in Sch. 2 Pt. II)
- F671** Words in s. 99A(1)(a) inserted (5.8.2005) by [The Passenger and Goods Vehicles \(Recording Equipment\) Regulations 2005](#) (S.I. 2005/1904), regs. 1(1), **7(2)(a)**
- F672** Words in s. 99A(1)(a) substituted (5.8.2005) by [The Passenger and Goods Vehicles \(Recording Equipment\) Regulations 2005](#) (S.I. 2005/1904), regs. 1(1), **7(2)(b)**
- F673** Words in s. 99A(1)(c) inserted (5.8.2005) by [The Passenger and Goods Vehicles \(Recording Equipment\) Regulations 2005](#) (S.I. 2005/1904), regs. 1(1), **7(3)**
- F674** S. 99A(6) inserted (5.1.2009) by [Road Safety Act 2006](#) (c. 49), ss. **12(1)**, 61(1)(10); S.I. 2008/3164, art. 2(c)

#### Marginal Citations

- M24** 1988 c. 52.  
**M25** 1994 c. 22.

#### <sup>F675</sup>99B Duration and removal of prohibition.

- (1) Subject to any exemption granted under subsection (2) of this section, a prohibition under subsection (1) of section 99A of this Act shall come into force as soon as notice of it has been given in accordance with subsection (3) of that section and shall continue in force—
  - (a) until it is removed under subsection (3) of this section, or
  - (b) in the case of a prohibition imposed for a specified period, until it is removed under that subsection or that period expires, whichever first occurs.
- (2) Where notice of a prohibition has been given under section 99A(3) of this Act in respect of a vehicle, an exemption in writing for the use of the vehicle in such manner, subject to such conditions and for such purposes as may be specified in the exemption may be granted by any authorised person.
- (3) A prohibition under section 99A(1) of this Act may be removed by any authorised person, if he is satisfied that appropriate action has been taken to remove or remedy the circumstances (as mentioned in paragraph (a), (b) or (c) of section 99A(1) of this Act) in consequence of which the prohibition was imposed; and on doing so the authorised person shall give notice in writing of the removal of the prohibition to the driver of the vehicle.
- (4) In this section, “authorised person” has the same meaning as in section 99A of this Act.

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#### Textual Amendments

**F675** Ss. 99A-99C inserted (1.2.2001) by 2000 c. 38, s. 266; S.I. 2001/57, art. 3, Sch. 2 Pt. I (subject to transitional provision and saving in Sch. 2 Pt. II)

#### <sup>F676</sup>99C Failure to comply with prohibition.

Any person who—

- (a) drives a vehicle on a road in contravention of a prohibition imposed under section 99A(1) of this Act,
- (b) causes or permits a vehicle to be driven on a road in contravention of such a prohibition, or
- (c) refuses or fails to comply within a reasonable time with a direction given under section 99A(2) of this Act,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Textual Amendments

**F676** Ss. 99A-99C inserted (1.2.2001) by 2000 c. 38, s. 266; S.I. 2001/57, art. 3, Sch. 2 Pt. I (subject to transitional provision and saving in Sch. 2 Pt. II)

#### 100 Power to give effect to international agreements.

- (1) The Minister may by order make, in relation to Great Britain, such provision as appears to him to be requisite for enabling the United Kingdom to become a party to any international agreement relating to the drivers or crews of vehicles used on international journeys, and, without prejudice to the generality of the foregoing provisions of this subsection, an order under this subsection may—
  - (a) modify or exclude any of the provisions contained in or having effect under this Part of this Act or contained in or having effect under any other enactment passed before or after this Act;
  - (b) provide for exemptions from all or any of the provisions of the order;
  - (c) provide for the punishment of contraventions of any provision of the order;
  - (d) contain such supplementary, incidental or consequential provisions as appear to the Minister to be necessary or expedient.
- (2) The Governor of Northern Ireland may, by Order in the Privy Council of Northern Ireland, make provision in relation to Northern Ireland for any purpose for which provision may be made in relation to Great Britain under subsection (1) of this section, and in relation to any such Order the provisions of that subsection shall apply accordingly as if for references to the Minister there were substituted references to the Governor of Northern Ireland; and any such Order may authorise the Ministry of Home Affairs for Northern Ireland to make regulations for any of the purposes of the Order.

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

- C89** Reference to the making of an Order in Council by the Governor of Northern Ireland to be construed as a reference to the making of an order by the Secretary of State: [Northern Ireland Constitution Act 1973 \(c. 36, SIF 29:3\)](#), [Sch. 5 para. 4\(2\)](#)
- C90** Functions of Privy Council of Northern Ireland transferred to Secretary of State: [S.I. 1973/2163](#), [arts. 1\(4\)](#), [2\(5\)](#)
- C91** Functions of Ministry of Home Affairs for Northern Ireland transferred to Department of Finance and Personnel for Northern Ireland: [S.R. & O. 1973/504](#) and [S.I.1982/338 \(N.I.6\)](#), [art. 3](#)
- C92** S. 100 applied (with modifications) (S.) (4.1.1995) by [1994 c. 39, s. 40\(7\)](#) (with s. 7(2)); [S.I. 1994/2850, art. 3\(a\)](#), [Sch. 2](#)

### **101 Orders and regulations under Part VI.**

- (1) In relation to orders or regulations 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 or regulations under this Part of this Act may make different provision for different classes of case.
- (3) No order shall be made <sup>F677</sup>... 100(1) of this Act unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament; and any regulations made under this Part of this Act (except regulations made <sup>F677</sup>... by virtue of an Order under section 100(2)) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

<sup>F678</sup>(3A) .....

- (4) No recommendation shall be made to the Governor of Northern Ireland in Council to make an Order under subsection (2) of section 100 of this Act unless a draft thereof has been laid before the Parliament of Northern Ireland and has been approved by resolution of each House of Parliament of Northern Ireland; and an Order under that subsection which authorises the making of regulations may make provision for the laying of such regulations before the Parliament of Northern Ireland and for their annulment in such circumstances as may be specified in the Order.
- (5) A definition or description of a class of vehicles for the purposes of any order or regulation under this Part of this Act may be framed by reference to any characteristic of the vehicles or to any other circumstances whatsoever.
- (6) Before making any order or regulations under this Part of this Act the Minister shall consult with such representative organisations as he thinks fit.

#### **Textual Amendments**

- F677** Words in s. 101(3) omitted (31.12.2020) by virtue of [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), [regs. 1\(3\)](#), [39\(a\)](#) (with [reg. 114](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)
- F678** S. 101(3A) omitted (31.12.2020) by virtue of [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), [regs. 1\(3\)](#), [39\(b\)](#) (with [reg. 114](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)

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

- C93** Reference to the making of an Order in Council by the Governor of Northern Ireland to be construed as a reference to the making of an order by the Secretary of State: [Northern Ireland Constitution Act 1973 \(c. 36, SIF 29:3\)](#), [Sch. 5 para. 4\(2\)](#)
- C94** Reference to the Parliament of Northern Ireland and to each House of Parliament of Northern Ireland to be construed as a reference to the Northern Ireland Assembly: [Northern Ireland Constitution Act 1973 \(c. 36, SIF 29:3\)](#), [Sch. 5 para. 3](#)
- C95** S. 101 applied (with modifications) (S.) (4.1.1995) by [1994 c. 39, s. 40\(7\)](#) (with s. 7(2)); [S.I. 1994/2850, art. 3\(a\)](#), [Sch. 2](#)

### **102 Application to the Crown and exemption for police and fire brigade.**

- (1) Subject to subsection (2) of this section, this Part of this Act shall apply to vehicles and persons in the public service of the Crown.
- (2) This Part of this Act shall not apply in the case of motor vehicles owned by the Secretary of State for Defence and used for naval, military or air force purposes or in the case of vehicles so used while being driven by persons for the time being subject to the orders of a member of the armed forces of the Crown.
- [<sup>F679</sup>(3) Where an offence under this Part of this Act is alleged to have been committed in connection with a vehicle in the public service of the Crown, proceedings may be brought in respect of the offence against a person nominated for the purpose on behalf of the Crown; and, subject to subsection (3A) below, where any such offence is committed any person so nominated shall also be guilty of the offence as well as any person actually responsible for the offence (but without prejudice to proceedings against any person so responsible).
- (3A) Where a person is convicted of an offence by virtue of subsection (3) above—
- no order may be made on his conviction save an order imposing a fine,
  - payment of any fine imposed on him in respect of that offence may not be enforced against him, and
  - apart from the imposition of any such fine, the conviction shall be disregarded for all purposes other than any appeal (whether by way of case stated or otherwise).]

(4) This Part of this Act shall not apply in the case of motor vehicles while being used for police [<sup>F680</sup>or [<sup>F681</sup>fire brigade]] [<sup>F681</sup>fire and rescue authority] purposes [<sup>F682</sup>or for or in connection with the exercise of any function of [<sup>F683</sup>the Scottish Fire and Rescue Service]] [<sup>F684</sup>or for purposes relating to the functions of Ministry of Defence fire-fighters (as defined in section 16 of the Armed Forces Act 2016)].

#### **Textual Amendments**

- F679** S. 102(3)(3A) as substituted by [Transport Act 1982 \(c. 49, SIF 126\)](#), [s. 64](#) fell upon the repeal of that Act by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), [s. 3](#), [Sch. 1](#) (with [Sch. 4 paras. 1–3](#)) and the new s. 102(3)(3A) was substituted for s. 102 by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), [s. 4](#), [Sch. 3 para. 6\(6\)](#) for section 102(3)
- F680** Words in s. 102(4) repealed (S.) (2.8.2005) by [Fire \(Scotland\) Act 2005 \(asp 5\)](#), [s. 90](#), [sch. 3 para. 4\(a\)](#) (with s. 77); [S.S.I. 2005/392, art. 2\(k\)](#)

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- F681** Words in s. 102(4) substituted (E.W.) (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 1 para. 25](#); S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F682** Words in s. 102(4) inserted (S.) (2.8.2005) by [Fire \(Scotland\) Act 2005 \(asp 5\)](#), s. 90, [sch. 3 para. 4\(b\)](#) (with s. 77); S.S.I. 2005/392, art. 2(k)
- F683** Words in s. 102(4) substituted (S.) (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [sch. 7 para. 47](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F684** Words in s. 102(4) inserted (12.7.2016) by [Armed Forces Act 2016 \(c. 21\)](#), [ss. 17\(1\)](#), 19(3)(b)

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

- C96** S. 102 applied (with modifications) (S.) (4.1.1995) by [1994 c. 39](#), [s. 40\(7\)](#) (with s. 7(2)); S.I. 1994/2850, art. 3(a), [Sch. 2](#)

**[<sup>F685</sup>102A] Exclusion of application to tramcars and trolley vehicles.**

- (1) This Part of this Act and section 255 of the Road Traffic Act 1960 in its application thereto shall not apply to tramcars or trolley vehicles operated under statutory powers.
- (2) In this section “operated under statutory powers” means, in relation to tramcars or trolley vehicles, that their use is authorised or regulated by special Act of Parliament or by an order having the force of an Act.
- (3) Subsection (1) above shall have effect subject to any such Act or order as is mentioned in subsection (2) above, and any such Act or order may apply to tramcars or trolley vehicles to which it relates any of the provisions excluded by the said subsection (1).]

**Textual Amendments**

- F685** S. 102A was inserted by Road Traffic Act 1972 and fell upon the repeal of that 1972 Act by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), s. 3, [Sch. 1](#) (with [Sch. 4](#), paras. 1–3); the text of s. 102A appearing here inserted by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), s. 4, [Sch. 3 para. 6\(7\)](#)

**[<sup>F686</sup>102B] Partnerships and other unincorporated associations**

- (1) Proceedings for an offence under this Part of this Act alleged to have been committed by a partnership must be brought in the name of the partnership (and not in that of any of the partners).
- (2) Proceedings for an offence under this Part of this Act alleged to have been committed by an unincorporated association (other than a partnership) must be brought in the name of the association (and not in that of any of its members).
- (3) Rules of court relating to the service of documents have effect as if the partnership or association were a body corporate.
- (4) In proceedings for an offence under this Part of this Act brought against a partnership or an unincorporated association, the following provisions apply as they do in relation to a body corporate—
  - (a) section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980;

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- (b) section 70 of the Criminal Procedure (Scotland) Act 1995
- (5) A fine imposed on a partnership on its conviction for an offence under this Part of this Act must be paid out of the partnership assets.
- (6) A fine imposed on an unincorporated association on its conviction for an offence under this Part of this Act must be paid out of the funds of the association.
- (7) Subsections (1) and (2) do not affect any liability of a partner, officer or member under section 102C.

#### Textual Amendments

**F686** S. 102B - S. 102C inserted (5.2.2008) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), 3

### 102C. Offences by bodies corporate etc

- (1) If an offence under this Part of this Act committed by a body corporate is proved—
- (a) to have been committed with the consent or connivance of an officer of the body, or
  - (b) to be attributable to any neglect on the part of an officer of the body,
- he, as well as the body corporate, is guilty of the offence.
- (2) In subsection (1) a reference to an officer of a body includes a reference to—
- (a) a director, manager or secretary;
  - (b) a person purporting to act as an officer of the body.
- (3) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body.
- (4) If an offence under this Part of this Act committed by a partnership is proved—
- (a) to have been committed with the consent or connivance of a partner, or
  - (b) to be attributable to any neglect on the part of a partner,
- he, as well as the partnership, is guilty of the offence.
- (5) In subsection (4) a reference to a partner includes a reference to a person purporting to act as a partner.
- (6) If an offence under this Part of this Act committed by an unincorporated association (other than a partnership) is proved—
- (a) to have been committed with the consent or connivance of an officer of the association, or
  - (b) to be attributable to any neglect on the part of an officer of the association,
- he, as well as the association, is guilty of the offence.
- (7) In subsection (6) a reference to an officer of an association includes a reference to—
- (a) a member of its governing body;
  - (b) a person purporting to act in the capacity of an officer of the association.]

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### Textual Amendments

**F686** S. 102B - S. 102C inserted (5.2.2008) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), 3

## 103 Interpretation, supplementary provisions, etc., for Part VI.

(1) In this Part of this Act—

[<sup>F687</sup>“AETR” has the meaning given by section 97ZA(12) of this Act;]

“agriculture” has the meaning assigned by section 109(3) of the <sup>M26</sup>Agriculture Act 1947 or, in relation to Scotland, section 86(3) of the <sup>M27</sup>Agriculture (Scotland) Act 1948;

[<sup>F688</sup>“analogue recording equipment” has the meaning given by section 99ZB(9) of this Act;]

[<sup>F689</sup>“the Community Drivers’ Hours Regulation” means Regulation (EC) No. 561/2006 of the European Parliament and of the Council as amended from time to time;]

[<sup>F690</sup>“contracting <sup>F691</sup>... country” means a country <sup>F692</sup>... which is a contracting party to—

(a) the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1st July 1970, as amended;

[<sup>F693</sup>...]  
[<sup>F694</sup>...]

[<sup>F688</sup>“copying” and “copies”, in relation to data stored on a driver card or digital recording equipment, is to be construed in accordance with section 99ZA(5) of this Act;]

[<sup>F688</sup>“digital recording equipment” has the meaning given by section 99ZA(6) of this Act;]

“driver”, “employee-driver” and “owner-driver” have the meaning assigned by section 95(3) of this Act;

[<sup>F688</sup>“driver card” has the meaning given by section 99ZA(6) of this Act;]

[<sup>F688</sup>“electronic copy” of data has the meaning given by section 99ZA(6) of this Act;]

“employer”, in relation to an employee-driver, means the employer of that driver in the employment by virtue of which that driver is an employee-driver;

[<sup>F695</sup>“the EU Tachographs Regulation” has the meaning given by section 97(7) of this Act;]

(a) the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1st July 1970, as amended;  
or

(b) the EEA agreement;

[<sup>F696</sup>“field test” has the meaning given by section 96A(1) of this Act;]

[<sup>F688</sup>“hard copy” in relation to data stored electronically has the meaning given by section 99ZA(6) of this Act;]

[<sup>F697</sup>“the applicable Community rules” means—

(a) the Community Drivers' Hours Regulation, including the AETR; and

(b) the EU Tachographs Regulation;]



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[<sup>F698</sup> “the domestic drivers’ hours code” has the meaning given by section 96(13) of this Act;]

[<sup>F688</sup> “officer” has the meaning given by section 99(8) of this Act;]

[<sup>F699</sup> “prescribed” means prescribed by regulations made by the Minister;

[<sup>F700</sup> “recording equipment” has the meaning given by section 97(7) of this Act;

“record sheet” includes a temporary sheet attached to a record sheet in accordance with [<sup>F701</sup> Article 37(2) of the EU Tachographs Regulation];]

[<sup>F702</sup> ...

[<sup>F703</sup> “transport undertaking” has the meaning given in the Community Drivers’ Hours Regulation;]

“working day”, in relation to any driver, means—

- (a) any period during which he is on duty and which does not fall to be aggregated with any other such period by virtue of paragraph (b) of this definition; and
- (b) where a period during which he is on duty is not followed by an interval for rest of not less than eleven hours or (where permitted by virtue of section 96(4)(b) of this Act) of not less than nine and a half hours, the aggregate of that period and each successive such period until there is such an interval as aforesaid, together with any interval or intervals between periods so aggregated;

[<sup>F704</sup> “working week” means, subject to subsection (5) of this section, a week beginning at midnight between Sunday and Monday;]

and any expression not defined above which is also used in the Act of 1960 has the same meaning as in that Act.

- (2) For the purposes of this Part of this Act a director of a company shall be deemed to be employed by it.
- (3) In this Part of this Act references to a person driving a vehicle are references to his being at the driving controls of the vehicle for the purpose of controlling its movements, whether it is in motion or is stationary with the engine running.
- (4) In this Part of this Act references to a driver being on duty are references—
  - (a) in the case of an employee-driver, to his being on duty (whether for the purpose of driving a vehicle to which this Part of this Act applies or for other purposes) in the employment by virtue of which he is an employee-driver, or in any other employment under the person who is his employer in the first-mentioned employment; and
  - (b) in the case of an owner-driver, to his driving a vehicle to which this Part of this Act applies for the purposes of a trade or business carried on by him or being otherwise engaged in work for the purposes of that trade or business, being work in connection with such a vehicle or the load carried thereby.
- (5) [<sup>F705</sup> A traffic commissioner] may, on the application of an owner-driver or of the employer of an employee-driver, from time to time direct that a week beginning at midnight between two days other than [<sup>F706</sup> Sunday and Monday] shall be, or be deemed to have been, a working week in relation to that owner-driver or employee-driver; but where by virtue of any such direction a new working week begins before the expiration of a previous working week then, without prejudice to the application of the provisions of this Part of this Act in relation to the new working week, those provisions shall continue to apply in relation to the previous working week until its expiration.

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- (6) In [<sup>F707</sup>section] 98(2)(e) of this Act “a small goods vehicle” means a goods vehicle which has a plated weight of the prescribed description not exceeding [<sup>F708</sup>3500 kilograms] or (not having a plated weight) has an unladen weight not exceeding [<sup>F708</sup>1525 kilograms]; but the Minister may by regulations direct that the foregoing provisions of this subsection shall have effect, in relation to either or both of those sections—
- (a) with the substitution for either of the weights there specified of such other weight as may be specified in the regulations;
  - (b) with the substitution for either of those weights or for any other weight for the time being specified as aforesaid of a weight expressed in terms of the metric system, being a weight which is equivalent to that for which it is substituted or does not differ from it by more than five per cent. thereof.
- [<sup>F709</sup>(7) An offence under this Part of this Act may be treated for the purpose of conferring jurisdiction on a court (but without prejudice to any jurisdiction it may have apart from this subsection) as having been committed in any of the following places, that is to say—
- (a) the place where the person charged with the offence was driving when evidence of the offence first came to the attention of a constable or vehicle examiner;
  - (b) the place where that person resides or is or is believed to reside or be at the time when the proceedings are commenced: or
  - (c) the place where at that time that person or, in the case of an employee-driver, that person’s employer or, in the case of an owner-driver, the person for whom he was driving, has his place or principal place of business or his operating centre for the vehicle in question.
- In this subsection “vehicle examiner” means an officer within the meaning of section 99 of this Act.]
- (8) The enactments specified in Schedule 11 to this Act shall have effect subject to the amendments there specified.
- (9) Any order made under section 166(2) of this Act appointing a day for the purposes of any of the provisions of this Part of this Act may contain such transitional provision as the Minister thinks necessary or expedient as respects the application of any particular provision of this Part of this Act to a working week or working day falling partly before and partly after the date on which that provision comes into operation.
- [<sup>F710</sup>(10) A reference in this Part of this Act to Annex IB to the EU Tachographs Regulation has effect, until the coming into force of that Annex, as a reference to Annex IB to [Council Regulation \(EEC\) No. 3821/85](#) on recording equipment in road transport as read with the Community Drivers’ Hours and Recording Equipment Regulations 2007.]

#### Textual Amendments

- F687** Words in s. 103(1) inserted (26.3.2019) by [The Drivers' Hours and Tachographs \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/453\)](#), regs. 1(2), **19**
- F688** Words in s. 103(1) inserted (5.8.2005) by [The Passenger and Goods Vehicles \(Recording Equipment\) Regulations 2005 \(S.I. 2005/1904\)](#), regs. 1(1), **8**
- F689** Words in s. 103(1) inserted (2.7.2007) by [The Community Drivers Hours and Recording Equipment Regulations 2007 \(S.I. 2007/1819\)](#), regs. 1(1), **8(a)**

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- F690** Words in s. 103(1) inserted (31.1.2018) by The Community Drivers Hours Offences (Enforcement) Regulations 2018 (S.I. 2018/24), regs. 1, **2(4)**
- F691** Word in s. 103(1) omitted (31.12.2020) by virtue of The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(3), **40(1)(a)(i)** (with reg. 114); 2020 c. 1, Sch. 5 para. 1(1)
- F692** Words in s. 103(1) omitted (31.12.2020) by virtue of The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(3), **40(1)(a)(ii)** (with reg. 114); 2020 c. 1, Sch. 5 para. 1(1)
- F693** Words in s. 103(1) omitted (31.12.2020) by virtue of The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(3), **40(1)(a)(iii)** (with reg. 114); 2020 c. 1, Sch. 5 para. 1(1)
- F694** Words in s. 103(1) omitted (2.3.2016) by virtue of The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016 (S.I. 2016/248), regs. 1(2), **11(2)(a)**
- F695** Words in s. 103(1) inserted (2.3.2016) by The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016 (S.I. 2016/248), regs. 1(2), **11(2)(a)**
- F696** Words in s. 103(1) inserted (2.3.2016) by The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016 (S.I. 2016/248), regs. 1(2), **11(2)(b)**
- F697** Words in s. 103(1) substituted (31.12.2020) by The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(3), **40(1)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F698** Definitions inserted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), s. **2(1)(b)**
- F699** Definition repealed by Transport Act 1985 (c. 67, SIF 126), s. 139(3), **Sch. 8**
- F700** Definitions inserted by S.I. 1979/1746, **reg. 3(7)(b)**
- F701** Words in s. 103(1) substituted (2.3.2016) by The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016 (S.I. 2016/248), regs. 1(2), **11(2)(c)**
- F702** Words in s. 103(1) omitted (31.12.2020) by virtue of The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(3), **40(1)(c)** (with reg. 114); 2020 c. 1, Sch. 5 para. 1(1)
- F703** Words in s. 103(1) inserted (5.2.2008) by The Passenger and Goods Vehicles (Recording Equipment) (Downloading and Retention of Data) Regulations 2008 (S.I. 2008/198), regs. 1(1), **4(d)**
- F704** Definition substituted by S.I. 1986/1458, **art. 3(1)**
- F705** Words in s. 103(5) substituted (3.7.2013) by The Local Transport Act 2008 (Traffic Commissioners) (Consequential Amendments) Order 2013 (S.I. 2013/1644), art. 1(1), **Sch. 1** (with arts. 1(3), 2, 7)
- F706** Words substituted by S.I. 1986/1458, **art. 3(2)**
- F707** Word substituted by S.I. 1979/1746, **reg. 3(8)**
- F708** Words substituted by S.I. 1981/1373, **Sch. Pt. IIIB**
- F709** S. 103(7) substituted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), s. **3**
- F710** S. 103(10) inserted (2.3.2016) by The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016 (S.I. 2016/248), regs. 1(2), **11(3)**

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

- C97** S. 103 applied (with modifications) (S.) (4.1.1995) by 1994 c. 39, s. **40(7)** (with s. 7(2)); S.I. 1994/2850, art. 3(a), **Sch. 2**
- C98** The text of s. 103(8), 161(4), 162(5), Sch. 16, paras. 8(1)(3), 9, 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Marginal Citations**

- M26** 1947 c. 48.  
**M27** 1948 c. 45.

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## PART VII

### INLAND WATERWAYS

#### *The Board's waterways*

#### 104 Classification of <sup>F711</sup>... waterways.

- (1) For the purposes of sections 105 to 111 of this Act the inland waterways comprised in the [<sup>F712</sup>undertakings] of the Waterways Board [<sup>F713</sup>and Canal & River Trust] shall be divided into—
    - (a) the waterways for the time being specified in Part I of Schedule 12 to this Act, being waterways (in this Part of this Act referred to as “the commercial waterways”) to be principally available for the commercial carriage of freight;
    - (b) the waterways for the time being specified in Part II of that Schedule, being waterways (in this Part of this Act referred to as “the cruising waterways”) to be principally available for cruising, fishing and other recreational purposes; and
    - (c) the remainder.
  - (2) The description contained in the said Schedule 12 of any waterway shall be read subject to any order made by the Minister [<sup>F714</sup>or, in the case of a waterway in Scotland, the Scottish Ministers] for giving greater precision to that description by reference to a map.
  - (3) The Minister [<sup>F715</sup>or, in the case of a waterway in Scotland, the Scottish Ministers] may by order transfer any waterway from one Part of the said Schedule 12 to the other Part, remove any waterway from either of those Parts or add to either of those Parts any inland waterway for the time being comprised in the undertaking of the Board [<sup>F716</sup>or Canal & River Trust] which is not for the time being a commercial waterway or a cruising waterway.
- [<sup>F717</sup>(3A) Canal & River Trust may apply to the Minister for the making of an order under subsection (3).
- (3B) In deciding whether to make an order under subsection (3), the Minister must have regard to the financial position of Canal & River Trust.]
- (4) Schedule 13 to this Act shall have effect in relation to the making of any order under subsection (3) of this section, and any such order shall be subject to annulment [<sup>F718</sup>in the case of an order made by the Minister,] in pursuance of a resolution of either House of Parliament [<sup>F719</sup>in the case of an order made by the Scottish Ministers, in pursuance of a resolution of the Scottish Parliament.].
  - (5) In subsection (3) of this section references to any waterway include references to any part of that waterway.

#### Textual Amendments

**F711** Words in s. 104 heading omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 38(2)** (with arts. 4-6)

**F712** Word in s. 104(1) substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 38(3)(a)** (with arts. 4-6)

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- F713** Words in s. 104(1) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 38\(3\)\(b\)](#) (with arts. 4-6)
- F714** Words in s. 104(2) inserted (1.4.2001) by [S.I. 2000/3251](#), arts. 1(2)(b), 2, [Sch. 2 Pt. II para. 3\(17\)](#) (with art. 4)
- F715** Words in s. 104(3) inserted (1.4.2001) by [S.I. 2000/3251](#), arts. 1(2)(b), 2, [Sch. 2 Pt. II para. 3\(18\)](#) (with art. 4)
- F716** Words in s. 104(3) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 38\(4\)](#) (with arts. 4-6)
- F717** S. 104(3A)(3B) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 38\(5\)](#) (with arts. 4-6)
- F718** Words in s. 104(4) inserted (1.4.2001) by [S.I. 2000/3251](#), arts. 1(2)(b), 2, [Sch. 2 Pt. II para. 3\(19\)\(a\)](#) (with art. 4)
- F719** Words in s. 104(4) inserted (1.4.2001) by [S.I. 2000/3251](#), arts. 1(2)(b), 2, [Sch. 2 Pt. II para. 3\(19\)\(b\)](#) (with art. 4)

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

- C99** S. 104 applied (with modifications) (S.) (4.1.1995) by [1994 c. 39, s. 40\(7\)](#) (with s. 7(2)); [S.I. 1994/2850](#), art. 3(a), [Sch. 2](#)

**105 Maintenance of <sup>F720</sup>... waterways.**

- (1) With a view to securing the general availability of the commercial and cruising waterways for public use, it shall be the duty of the Waterways Board [<sup>F721</sup>and of Canal & River Trust, in relation to the waterways comprised in their respective undertakings], subject to the provisions of this section—
- (a) to maintain the commercial waterways in a suitable condition for use by commercial freight-carrying vessels; and
  - (b) to maintain the cruising waterways in a suitable condition for use by cruising craft, that is to say, vessels constructed or adapted for the carriage of passengers and driven by mechanical power.
- (2) Neither paragraph (a) nor paragraph (b) of subsection (1) of this section shall impose on the Board [<sup>F722</sup>or Canal & River Trust] any duty to maintain a waterway, or any part of a waterway, in a suitable condition for use by any vessel of the kind mentioned in that paragraph unless the dimensions of the vessel (that is to say, its length, width, height of superstructure and draught)—
- (a) correspond to, or are less than, those of a vessel of that kind which customarily used that waterway or part during the period of nine months ending with 8th December 1967; or
  - (b) if the waterway or part has been restored or improved since that date, are such as to make it suitable for use on that waterway or part;
- but, save as aforesaid, the duty imposed by that paragraph shall extend to any vessel of the kind therein mentioned as respects the dimensions of which paragraph (a) or (b) of this subsection is satisfied.
- (3) If it appears to the Minister that, having regard to any change in the size, design or type of vessel customarily using any commercial waterway or cruising waterway, or any part thereof, [<sup>F723</sup>or to any other reason the Minister considers relevant to the duty under subsection (1),] it is desirable to exercise his powers under this subsection, he may (after consultation with [<sup>F724</sup>Canal & River Trust]) by order substitute for the duty imposed on [<sup>F724</sup>Canal & River Trust] by the foregoing provisions of this section in respect of that waterway or part such duty in respect of the maintenance thereof as he

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considers appropriate having regard to that change, and may by that order make such incidental or transitional provision as he thinks necessary or expedient in connection therewith.

[<sup>F725</sup>(3ZA) Canal & River Trust may apply to the Minister for the making of an order under subsection (3).

(3ZB) In deciding whether to make any order under subsection (3), the Minister must have regard to the financial position of Canal & River Trust.]

[<sup>F726</sup>(3A) If it appears to the Scottish Ministers that, having regard to any change in the size, design or type of vessel customarily using any commercial waterway or cruising waterway, or any part of such waterway, it is desirable to exercise their powers under this subsection, they may (after consultation with the Board) by order substitute for the duty imposed on the Board by subsection (1) in respect of that waterway (or part) such duty in respect of the maintenance of such waterway (or part) as they consider appropriate having regard to that change, and may by that order make such incidental or transitional provision as they think necessary or expedient in connection therewith.]

(4) Schedule 13 to this Act shall have effect in relation to the making of any order under subsection (3) [<sup>F727</sup>or (3A)] of this section, and any such order [<sup>F728</sup>made by the Minister under subsection (3)] shall be subject to annulment in pursuance of a resolution of either House of Parliament [<sup>F729</sup>, and an order made by the Scottish Ministers under subsection (3A) is subject to the negative procedure].

(5) Section 17 of the <sup>M28</sup>Regulation of Railways Act 1873 (which requires the Board to maintain certain inland waterways) shall cease to apply to any inland waterway which on the date on which this section comes into force is comprised in the undertaking of the Board; and any local enactment passed with respect to any such inland waterway, so far as that enactment—

- (a) confers any public or private right of navigation over the waterway; or
- (b) imposes any duty to maintain that waterway for the purpose of navigation (including any duty to supply, or maintain a supply of, water for the waterway for that purpose),

shall cease to have effect.

(6) If the Board [<sup>F730</sup>or Canal & River Trust] acquire any inland waterway after the date on which this section comes into force any local enactment passed with respect thereto shall, so far as it confers or imposes any such right or duty as is mentioned in paragraph (a) or (b) of subsection (5) of this section, cease to have effect on the date on which the waterway is so acquired.

(7) Any person who suffers loss by reason of the extinguishment by virtue of subsection (5) or (6) of this section of any private right shall be entitled to be paid by the Board [<sup>F731</sup>or, as the case may be, Canal & River Trust] compensation to be determined, in case of dispute, by the appropriate tribunal; and the tribunal shall, in determining the compensation, take into account any contractual right offered by the Board [<sup>F731</sup>or, as the case may be, Canal & River Trust] in substitution for the right which is extinguished.

(8) Where by virtue of subsection (5) of this section a statutory right of navigation ceases to be exercisable as respects a waterway of which the Waterways Board [<sup>F732</sup>or, as the case may be, Canal & River Trust] are not the owner, the Board [<sup>F732</sup>or, as the case may be, Canal & River Trust] shall have power to authorise any use of the waterway which would have been authorised by that statutory right.

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### Textual Amendments

- F720** Words in s. 105 heading omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 39\(2\)](#) (with arts. 4-6)
- F721** Words in s. 105(1) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 39\(3\)](#) (with arts. 4-6)
- F722** Words in s. 105(2) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 39\(4\)](#) (with arts. 4-6)
- F723** Words in s. 105(3) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 39\(5\)\(a\)](#) (with arts. 4-6)
- F724** Words in s. 105(3) substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 39\(5\)\(b\)](#) (with arts. 4-6)
- F725** S. 105(3ZA)(3ZB) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 39\(6\)](#) (with arts. 4-6)
- F726** S. 105(3A) substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 39\(7\)](#) (with arts. 4-6)
- F727** Words in s. 105(4) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 39\(8\)\(a\)](#) (with arts. 4-6)
- F728** Words in s. 105(4) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 39\(8\)\(b\)](#) (with arts. 4-6)
- F729** Words in s. 105(4) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 39\(8\)\(c\)](#) (with arts. 4-6)
- F730** Words in s. 105(6) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 39\(9\)](#) (with arts. 4-6)
- F731** Words in s. 105(7) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 39\(10\)](#) (with arts. 4-6)
- F732** Words in s. 105(8) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 39\(10\)](#) (with arts. 4-6)

### Modifications etc. (not altering text)

- C100** S. 105 applied (with modifications) (S.) (4.1.1995) by 1994 c. 39, s. 40(7) (with s. 7(2)); S.I. 1994/2850, art. 3(a), [Sch. 2](#)
- C101** S. 105(3) modified (1.6.1993) by S.I. 1993/1119, reg. 4(1)(a), [Sch. 1 para. 1](#)

### Marginal Citations

- M28** 1873 c. 48.

## [<sup>F733</sup>106.Enforcement of maintenance duty – the Waterways Board

- (1) If, on an application by any person under this section to the Court of Session, the court determines that there has been, in respect of any waterway, a serious and persistent failure by the Waterways Board to discharge the duty imposed on them by—
- section 105(1), or
  - an order made under section 105(3A),

the court may, subject to the provisions of this section, require the Board to remedy that failure; but, save as aforesaid, neither subsection (1) of section 105 nor any order under subsection (3A) of that section shall be construed as imposing any duty or liability enforceable by proceedings before any court to which the Board would not otherwise be subject.

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- (2) The fact that proceedings on an application under subsection (1) (referred to in this section as “enforcement proceedings”) are in progress in respect of any waterway or any part of a waterway, or that the court has in any such proceedings imposed any requirement on the Board, shall not prevent the Scottish Ministers from making an order in respect of that waterway or part under section 104(3) or 105(3A); but—
- (a) except as provided in subsection (3) of this section, where such an order is made while enforcement proceedings are in progress, the court shall nevertheless determine those proceedings on the basis of the duty of the Board as it stood when the proceedings were instituted; and
  - (b) the making of such an order shall in no case absolve the Board from complying with any requirement which is imposed by the court in any enforcement proceedings.
- (3) If a relevant order is pending at the time when enforcement proceedings are instituted, or if, at any time after enforcement proceedings have been instituted and before the court has imposed any requirement on the Board in the proceedings, the Scottish Ministers notify the Board that they are considering the making of a relevant order and give the court such a certificate as is mentioned in subsection (4)—
- (a) the court shall not, so long as the order is pending, impose any requirement on the Board in those proceedings; and
  - (b) if the order is made, the court shall, in determining in those proceedings whether there has been a failure by the Board to discharge their duty, have regard only to the duty (if any) to which the Board are subject in consequence of the making of the order.
- (4) The certificate referred to in subsection (3) is a certificate in writing to the effect that it appears to the Scottish Ministers that the imposition of any requirement on the Board on the basis of their existing duty would result in their incurring substantial expense and that, having regard to their financial position and their duty under section 18 of the Act of 1962 and section 41 of this Act, it would be unreasonable for them to bear that expense without a grant or further grant under section 43 of this Act.
- (5) In subsection (3) “relevant order” means, in relation to any enforcement proceedings, an order under section 104(3) or 105(3A) of this Act in relation to the waterway or part of a waterway which is the subject of the proceedings; and for the purposes of that subsection an order is pending during the period of three months beginning with the day on which the Scottish Ministers notify the Board that they are considering the making of the order and, if before the expiration of that period notice of the proposed order is published under Schedule 13 to this Act, during any further period until the order is made or the Scottish Ministers notify the Board that it will not be made.
- (6) As soon as may be after giving the Board any such notification as is mentioned in subsection (5), the Scottish Ministers shall give notice of that notification in the Edinburgh Gazette.
- (7) For the purposes of this section enforcement proceedings shall be treated as instituted at the time when the summons beginning the proceedings is served on the Board.

#### Textual Amendments

**F733** Ss. 106, 106A substituted for s. 106 (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 40** (with arts. 4-6)



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## **106A. Enforcement of maintenance duty – Canal & River Trust**

- (1) If, on an application by any person under this section to the High Court, the court determines that there has been, in respect of any waterway, a serious and persistent failure by Canal & River Trust to discharge the duty imposed on it by—
  - (a) section 105(1), or
  - (b) an order made under section 105(3),the court may, subject to the provisions of this section, require Canal & River Trust to remedy that failure; but, save as aforesaid, neither subsection (1) of section 105 nor any order under subsection (3) of that section shall be construed as imposing any duty or liability enforceable by proceedings before any court to which Canal & River Trust would not otherwise be subject.
- (2) The fact that proceedings on an application under subsection (1) (referred to in this section as “enforcement proceedings”) are in progress in respect of any waterway or any part of a waterway, or that the court has in any such proceedings imposed any requirement on Canal & River Trust, shall not prevent the Minister from making an order in respect of that waterway or part under section 104(3) or 105(3); but—
  - (a) except as provided in subsection (3) of this section, where such an order is made while enforcement proceedings are in progress, the court shall nevertheless determine those proceedings on the basis of the duty of Canal & River Trust as it stood when the proceedings were instituted; and
  - (b) the making of such an order shall in no case absolve Canal & River Trust from complying with any requirement which is imposed by the court in any enforcement proceedings.
- (3) If a relevant order is pending at the time when enforcement proceedings are instituted, or if, at any time after enforcement proceedings have been instituted and before the court has imposed any requirement on Canal & River Trust in the proceedings, the Minister notifies Canal & River Trust that the Minister is considering the making of a relevant order and gives the court such a certificate as is mentioned in subsection (4)—
  - (a) the court shall not, so long as the order is pending, impose any requirement on Canal & River Trust in those proceedings; and
  - (b) if the order is made, the court shall, in determining in those proceedings whether there has been a failure by Canal & River Trust to discharge its duty, have regard only to the duty (if any) to which Canal & River Trust is subject in consequence of the making of the order.
- (4) The certificate referred to in subsection (3) is a certificate in writing to the effect that it appears to the Minister that the imposition of any requirement on Canal & River Trust on the basis of its existing duty would result in its incurring substantial expense and that, having regard to its financial position, it would be unreasonable for it to bear that expense without a grant or further grant under section 43A of this Act.
- (5) In subsection (3) “relevant order” means, in relation to any enforcement proceedings, an order under section 104(3) or 105(3) of this Act in relation to the waterway or part of a waterway which is the subject of the proceedings; and for the purposes of that subsection an order is pending during the period of three months beginning with the day on which the Minister notifies Canal & River Trust that the Minister is considering the making of the order and, if before the expiration of that period notice of the proposed order is published under Schedule 13 to this Act, during any further period until the order is made or the Minister notifies Canal & River Trust that it will not be made.

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- (6) As soon as may be after giving Canal & River Trust any such notification as is mentioned in subsection (5), the Minister shall give notice of the notification in the London Gazette.
- (7) For the purposes of this section enforcement proceedings shall be treated as instituted at the time when the claim form beginning the proceedings is served on Canal & River Trust.]

#### Textual Amendments

**F733** Ss. 106, 106A substituted for s. 106 (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 40** (with arts. 4-6)

### 107 Amendments as to general duties of Board.

- (1) The duty of the Waterways Board under subsection (1) of section 10 of the Act of 1962 to provide services and facilities on the inland waterways owned or managed by them shall extend only to the commercial waterways and cruising waterways.
- (2) It shall be the duty of the Board—
- (a) to secure that each of the inland waterways comprised in their undertaking which is not a commercial waterway or cruising waterway is dealt with in the most economical manner possible (consistent, in the case of a waterway which is retained, with the requirements of public health and the preservation of amenity and safety), whether by retaining and managing the waterway, by developing or eliminating it, or by disposing of it; and
  - (b) to secure that the best possible financial return is obtained from any asset of the Board which is not an inland waterway or harbour and is not required in connection with the provision of services and facilities by the Board, whether by exploiting it, by developing it, or by disposing of it.
- (3) Subsection (4) of the said section 10 (which provides that the duties of the Board under that section are not to be legally enforceable) shall apply also to the duty imposed on the Board by subsection (2) of this section.

(4)<sup>F734</sup>

#### Textual Amendments

**F734** Ss. 107(4), 112(7) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), **Sch. Pt. VI**

### 108 Prevention of nuisance as respects certain waterways.

- (1) Subject to subsection (3) of this section, any inland waterway in England or Wales comprised in the undertaking of [<sup>F735</sup>Canal & River Trust] which is not a commercial waterway or cruising waterway shall be deemed to be—
- (a) a watercourse for the purposes of section 259 of the <sup>M29</sup>Public Health Act 1936; and
  - [<sup>F736</sup>(b) land to which section 215 of the Town and Country Planning Act 1990 applies;]

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and the provisions of Part III of the [F737]Environmental Protection Act 1990], as they apply by virtue of this subsection, may be enforced by a county council as well as by a local authority as defined in that Act, and any local authority within the meaning of [F738]the said Act of 1990] (and not only the local planning authority) shall be entitled to enforce the provisions of [F738]the said section 215] as it applies by virtue of this subsection.

- (2) Subject to subsection (3) of this section, any inland waterway in Scotland comprised in the undertaking of the Board which is not a commercial waterway or cruising waterway shall be deemed to be—

[F739](a) . . . . .

[F740](b) land to which section 179 of the Town and Country Planning (Scotland) Act 1997 applies;]

and any local authority within the meaning of [F741]the said Act of 1997] (and not only the local planning authority) shall be entitled to enforce the provisions of [F742]the said section 179] as it applies by virtue of this subsection.

- (3) This section shall not apply to any waterway which has been closed to navigation under any local enactment before the date on which this section comes into force if the use of the waterway has been changed between the passing of that enactment and that date in pursuance of planning permission granted under [F743]Part III of the Town and Country Planning Act 1962 or [F744]Part II of the Town and Country Planning (Scotland) Act 1947; and] and this section shall cease to apply to any waterway if the use thereof is changed after that date in pursuance of such permission as aforesaid.

- (4) This section shall have effect to the exclusion of any provision for similar purposes in any local enactment passed before the date on which this section comes into force in relation to any waterway to which this section applies.

#### Textual Amendments

- F735** Words in s. 108(1) substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 41** (with arts. 4-6)
- F736** S. 108(1)(b) substituted by [Planning \(Consequential Provisions\) Act 1990](#) (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 22(2)(a)**
- F737** Words substituted by [Environmental Protection Act 1990](#) (c. 43, SIF 46:4), s. 162(1), **Sch. 15 para. 10(3)**
- F738** Words substituted by virtue of [Planning \(Consequential Provisions\) Act 1990](#) (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 22(2)(a)**
- F739** S. 108(2)(a) repealed (S.) (1.10.2009) by [Public Health etc. \(Scotland\) Act 2008](#) (asp 5), s. 128(2), **sch. 3 Pt. 1** (with s. 127); S.S.I. 2009/319, art. 2(a), sch. 1
- F740** S. 108(2)(b) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 17(1)(a)(i)**
- F741** Words in s. 108(2) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(5), **Sch. 2 para. 17(1)(a)(ii)**
- F742** Words in s. 108(2) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 17(1)(a)(ii)**
- F743** Words substituted by [Planning \(Consequential Provisions\) Act 1990](#) (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 22(2)(b)**
- F744** By 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 17(1)(b)** it is provided (27.5.1997) that the words “Part II of the Town and Country Planning (Scotland) Act 1947; and” are substituted for the words from “Part II” to “1947; and”

#### Marginal Citations

**M29** 1936 c. 49.

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**109 Power of certain bodies to maintain or take over waterways and connected works <sup>F745</sup>in Scotland]. **E+W****

(1) Without prejudice to their powers apart from this section, but subject to subsection (3) of this section, the Waterways Board shall have power—

- (a) to enter into an agreement with any body to which this section applies for the maintenance by that body of any inland waterway comprised in the undertaking of the Board which is not a commercial waterway or cruising waterway, or of any part of, or of any works connected with, any such waterway;
- (b) by agreement with any such body, to transfer to it any such waterway, part of a waterway or works as aforesaid belonging to the Board, together with any powers or obligations (whether statutory or otherwise) of the Board in respect thereof;

and any body to which this section applies shall have all such powers as are required to enable it to enter into and carry out any such agreement as aforesaid or as are required to be exercised by it in consequence of any such transfer as is mentioned in this subsection.

(2) The bodies to which this section applies are as follows—

- (a) a local authority;
- <sup>F746</sup>(b) .....
- <sup>F747</sup>(c) .....
- <sup>F748</sup>(d) a public gas supplier within the meaning of Part I of the Gas Act 1986;
- <sup>F749</sup>(e) a public electricity supplier within the meaning of Part I of the Electricity Act 1989;
- <sup>F747</sup>(h) .....
- <sup>F750</sup>(j) .....
- <sup>F751</sup>(k) .....

and, as respects any particular agreement or transfer, any other body having public or charitable objects which is certified by <sup>F752</sup>the Scottish Ministers as a body appearing to <sup>F753</sup>them] to be capable of discharging the responsibilities falling on the body in consequence of that agreement or transfer.

(3) Subject to subsection (5) of this section, no such agreement or transfer as is mentioned in subsection (1) of this section shall be made with or to—

- (a) any local authority unless what is to be maintained or transferred—
  - (i) is situated in the area of the authority; or
  - (ii) though not situated in that area, is so situated that persons residing in that area have convenient access to it;

<sup>F754</sup>(b) Scottish Water unless the Scottish Ministers have consented to the agreement or transfer;

and the powers under this section of Scottish Water shall be exercisable only for the purposes of their water undertaking and with the consent of the Scottish Ministers.]

(4) Any agreement under this section whereby a waterway or part of a waterway is to be maintained by, or transferred to, a body to which this section applies may include provision for securing that the body in question makes the waterway or part available for public use.

*Status: Point in time view as at 07/05/2024.*

*Changes to legislation: Transport Act 1968 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[<sup>F755</sup>(5) The Board may make an agreement for maintenance or transfer under this section with two or more bodies jointly on such terms as to the sharing of expenses between those bodies and otherwise as those bodies may agree; and, notwithstanding subsection (3) (a)(i) of this section (but without prejudice to subsection (3)(a)(ii) of this section), a local authority may be a party to such an agreement if part of what is to be maintained or transferred is situated in their area and the remainder in the area or areas of one or more other authorities (whether or not local authorities) who are also parties to the agreement.]

#### Extent Information

**E11** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

#### Textual Amendments

**F745** Words in s. 109 heading inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 42(2)** (with arts. 4-6)

**F746** S. 109(2)(b) omitted (E.W.) (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 42(3)(a)** (with arts. 4-6)

**F747** S. 109(2)(c)(h) omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 42(3)(b)** (with arts. 4-6)

**F748** S. 109(2)(d) substituted by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1), **Sch. 7 para. 9**

**F749** S. 109(2)(e) substituted for paragraphs (e), (f) and (g) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), **Sch. 16 para. 14** (with **Sch. 17 paras. 33, 35(1)**)

**F750** S. 109(2)(j) omitted (E.W.) (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 42(3)(c)** (with arts. 4-6)

**F751** S. 109(2)(k) omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 42(3)(d)** (with arts. 4-6)

**F752** Words in s. 109(2) substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 42(3)(e)** (with arts. 4-6)

**F753** Words in s. 109(2) inserted (1.4.2001) by [S.I. 2000/3251](#), arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(27)(a)(b)** (with art. 4)

**F754** S. 109(3)(b) and words substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 42(4)** (with arts. 4-6)

**F755** S. 109(5) substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 42(5)** (with arts. 4-6)

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

**C102** S. 109(2)(d) amended (1.3.1996) by [1995 c. 45, s. 16\(1\)](#), **Sch. 4 para. 2(2)(d)**; [S.I. 1996/218](#), **art. 2**

## 109 Power of certain bodies to maintain or take over waterways and connected works [<sup>F745</sup>in Scotland]. **S**

- (1) Without prejudice to their powers apart from this section, but subject to subsection (3) of this section, the Waterways Board shall have power—
  - (a) to enter into an agreement with any body to which this section applies for the maintenance by that body of any inland waterway comprised in the undertaking of the Board which is not a commercial waterway or cruising waterway, or of any part of, or of any works connected with, any such waterway;

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- (b) by agreement with any such body, to transfer to it any such waterway, part of a waterway or works as aforesaid belonging to the Board, together with any powers or obligations (whether statutory or otherwise) of the Board in respect thereof;

and any body to which this section applies shall have all such powers as are required to enable it to enter into and carry out any such agreement as aforesaid or as are required to be exercised by it in consequence of any such transfer as is mentioned in this subsection.

- (2) The bodies to which this section applies are as follows—

- (a) a local authority;
- [<sup>F990</sup>(b) Scottish Water;]
- <sup>F747</sup>(c) .....
- [<sup>F991</sup>(d) a public gas supplier within the meaning of Part I of the Gas Act 1986;]
- [<sup>F992</sup>(e) a public electricity supplier within the meaning of Part I of the Electricity Act 1989;]
- <sup>F747</sup>(h) .....
- <sup>F993</sup>(j) .....
- <sup>F751</sup>(k) .....

and, as respects any particular agreement or transfer, any other body having public or charitable objects which is certified by [<sup>F752</sup>the Scottish Ministers as a body appearing to][<sup>F994</sup>them] to be capable of discharging the responsibilities falling on the body in consequence of that agreement or transfer.

- (3) Subject to subsection (5) of this section, no such agreement or transfer as is mentioned in subsection (1) of this section shall be made with or to—

- (a) any local authority unless what is to be maintained or transferred—
  - (i) is situated in the area of the authority; or
  - (ii) though not situated in that area, is so situated that persons residing in that area have convenient access to it;

- [<sup>F754</sup>(b) Scottish Water unless the Scottish Ministers have consented to the agreement or transfer;

and the powers under this section of Scottish Water shall be exercisable only for the purposes of their water undertaking and with the consent of the Scottish Ministers.]

- (4) Any agreement under this section whereby a waterway or part of a waterway is to be maintained by, or transferred to, a body to which this section applies may include provision for securing that the body in question makes the waterway or part available for public use.

- [<sup>F755</sup>(5) The Board may make an agreement for maintenance or transfer under this section with two or more bodies jointly on such terms as to the sharing of expenses between those bodies and otherwise as those bodies may agree; and, notwithstanding subsection (3)(a)(i) of this section (but without prejudice to subsection (3)(a)(ii) of this section), a local authority may be a party to such an agreement if part of what is to be maintained or transferred is situated in their area and the remainder in the area or areas of one or more other authorities (whether or not local authorities) who are also parties to the agreement.]

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#### Extent Information

- E32** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

#### Textual Amendments

- F745** Words in s. 109 heading inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 42(2)** (with arts. 4-6)
- F747** S. 109(2)(c)(h) omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 42(3)(b)** (with arts. 4-6)
- F751** S. 109(2)(k) omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 42(3)(d)** (with arts. 4-6)
- F752** Words in s. 109(2) substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 42(3)(e)** (with arts. 4-6)
- F754** S. 109(3)(b) and words substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 42(4)** (with arts. 4-6)
- F755** S. 109(5) substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 42(5)** (with arts. 4-6)
- F990** S. 109(2)(b) substituted (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), art. 1(1), **Sch. para. 7(2)(a)(i)**
- F991** S. 109(2)(d) substituted by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1), **Sch. 7 para. 9**
- F992** S. 109(2)(e) substituted for paragraphs (e), (f) and (g) by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), [Sch. 16 para. 14](#) (with [Sch. 17 paras. 33, 35\(1\)](#))
- F993** S. 109(2)(j) repealed (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), art. 1(1), **Sch. para. 7(2)(a)(ii)**
- F994** Words in s. 109(2) inserted (1.4.2001) by [S.I. 2000/3251](#), arts. 1(2)(b), 2, **Sch. 2 Pt. II**, art. 3(27)(a) (with art. 4)

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

- C168** S. 109(2)(d) amended (1.3.1996) by [1995 c. 45](#), s. 16(1), **Sch. 4 para. 2(2)(d)**; [S.I. 1996/218](#), art. 2

### <sup>F756</sup>110 The Inland Waterways Advisory Council

#### Textual Amendments

- F756** Ss. 110-110C repealed (2.7.2012) by [The Inland Waterways Advisory Council \(Abolition\) Order 2012 \(S.I. 2012/1658\)](#), arts. 1(b), 5, **Sch.**

### <sup>F756</sup>110A Term of office, procedure etc.

#### Textual Amendments

- F756** Ss. 110-110C repealed (2.7.2012) by [The Inland Waterways Advisory Council \(Abolition\) Order 2012 \(S.I. 2012/1658\)](#), arts. 1(b), 5, **Sch.**

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## F756 **110B Functions of Council: England and Wales**

.....

### Textual Amendments

**F756** Ss. 110-110C repealed (2.7.2012) by [The Inland Waterways Advisory Council \(Abolition\) Order 2012 \(S.I. 2012/1658\)](#), arts. 1(b), 5, [Sch.](#)

## F756 **110C Functions of Council: Scotland**

.....

### Textual Amendments

**F756** Ss. 110-110C repealed (2.7.2012) by [The Inland Waterways Advisory Council \(Abolition\) Order 2012 \(S.I. 2012/1658\)](#), arts. 1(b), 5, [Sch.](#)

## **111 Access agreements and orders as respects canals other than commercial waterways and cruising waterways.**

Subsections (2) and (3) of section 16 of the <sup>M30</sup>Countrywide Act 1968 (which enable access agreements and access orders to be made under Part V of the National Parks and Access to the <sup>M31</sup>Countrywide Act 1949 in respect of canals and of certain land held therewith) shall apply as respects, and as respects land held with, any canal or part of a canal owned or managed by [<sup>F757</sup>Canal & River Trust] which is not for the time being a commercial waterway or a cruising waterway; and accordingly in subsection (6)(c) of that section (which prevents the said subsections (2) and (3) from applying where the canal or part of a canal is owned or managed by the Board) there shall be added at the end the words “ which is for the time being a commercial waterway of a cruising waterway within the meaning of section 104 of the Transport Act 1968 ”.

### Textual Amendments

**F757** Words in s. 111 substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 43](#) (with arts. 4-6)

### Marginal Citations

**M30** 1968 c. 41.

**M31** 1949 c. 97.

### *Other inland waterway provisions*

## **112 Power to extinguish statutory rights and obligations in respect of canals not comprised in undertaking of Board [<sup>F758</sup>or Canal & River Trust].**

- (1) In the case of any canal which is not comprised in the undertaking of the Waterways Board [<sup>F759</sup>or Canal & River Trust], the Minister [<sup>F760</sup>, or, in the case of a canal in Scotland, the Scottish Ministers,] may by order direct all or any of the following, that is to say—



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- (a) that any local enactment passed with respect to that canal shall cease to have effect so far as it confers any public or private right of navigation over that canal;
  - (b) that any such enactment shall cease to have effect so far as it imposes any duty to maintain that canal for the purpose of navigation (including any duty to supply, or maintain a supply of, water for the canal for that purpose);
  - (c) that section 17 of the <sup>M32</sup>Regulation of Railways Act 1873 if applicable to that canal, shall cease to apply to it.
- (2) An order under this section in respect of any canal may be made on the application of the person who owns or manages the canal, on the application of [<sup>F761</sup>any local authority or [<sup>F763</sup>water][<sup>F761</sup>Scottish Water or any local] authority] in whose[<sup>F762</sup>the National Rivers Authority or any local authority in whose] area the canal is situated, or without any application being made.
- (3) An order under this section in respect of any canal—
- (a) shall specify the person, whether the person who owns or manages the canal, a [<sup>F764</sup>local authority, [<sup>F765</sup>a [<sup>F763</sup>water authority]][<sup>F765</sup>Scottish Water] or the[<sup>F764</sup>local authority, the National Rivers Authority or ][<sup>F766</sup>the authority making the order] , by whom any such compensation as is mentioned in subsection (4) of this section is to be paid;
  - (b) may confer on a person specified in the order power to authorise any use of the canal which would have been authorised by a statutory right of navigation which by virtue of the order ceases to be exercisable as respects the canal;
  - (c) may make provision, in relation to the canal or any works connected therewith, for purposes corresponding to those of section 109 of this Act; and
  - (d) may include such incidental or supplementary provisions as [<sup>F767</sup>the authority making the order] thinks fit, including provisions for applying section 259 of the <sup>M33</sup>Public Health Act 1936 and [<sup>F768</sup>section 215 of the Town and Country Planning Act 1990], or, as the case may be, <sup>F769</sup>... [<sup>F770</sup>section 179 of the Town and Country Planning (Scotland) Act 1997] to the canal.
- (4) Any person who suffers loss by reason of the extinguishment by virtue of an order under this section of any private right shall be entitled to be paid by the person specified in that behalf in the order compensation to be determined, in case of dispute, by the appropriate tribunal; and the tribunal shall, in determining the compensation, take into account any contractual right offered by the person who owns or manages the canal in substitution for the right which is extinguished.
- (5) Schedule 13 to this Act shall have effect in relation to the making of any order under this section, and any such order shall [<sup>F771</sup>, in the case of an order made by the Minister.] be subject to annulment in pursuance of a resolution of either House of Parliament[<sup>F772</sup>, and in the case of an order made by the Scottish Ministers, is subject to the negative procedure].
- (6) In this section “canal” includes any navigation which has been made under, or in respect of which tolls may be levied by virtue of, any enactment, and references to a canal include references to part of a canal.

<sup>F773</sup>(6A) .....

(7<sup>F774</sup>

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### Textual Amendments

- F758** Words in s. 112 heading inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 44(2)** (with arts. 4-6)
- F759** Words in s. 112(1) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 44(3)(a)** (with arts. 4-6)
- F760** Words in s. 112(1) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 44(3)(b)** (with arts. 4-6)
- F761** Words in s. 112(2) substituted (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), art. 1(1), **Sch. para. 7(3)(a)**
- F762** Words commencing “the National Rivers” substituted (E.W.) for words commencing “any local” by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), **Sch. 25 para. 38(2)(a)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\), 58](#))
- F763** Words substituted by virtue of [Water Act 1973 \(c. 37\)](#), **s. 9(a)**
- F764** Words commencing “local authority, the National” substituted (E.W.) for words commencing “local authority, a water” by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), **Sch. 25 para. 38(2)(b)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\), 58](#))
- F765** Words in s. 112(3)(a) substituted (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), art. 1(1), **Sch. para. 7(3)(b)**
- F766** Words in s. 112(3)(a) substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 44(4)(a)** (with arts. 4-6)
- F767** Words in s. 112(3)(d) substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 44(4)(b)** (with arts. 4-6)
- F768** Words substituted by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c.11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 22(3)**
- F769** Words in s. 112(3)(d) repealed (S.) (1.10.2009) by [Public Health etc. \(Scotland\) Act 2008 \(asp 5\)](#), s. 128(2), **sch. 3 Pt. 1** (with s. 127); [S.S.I. 2009/319](#), art. 2(a), sch. 1
- F770** Words in s. 112(3)(d) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 17(2)**
- F771** Words in s. 112(5) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 44(5)(a)** (with arts. 4-6)
- F772** Words in s. 112(5) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 44(5)(b)** (with arts. 4-6)
- F773** S. 112(6A) omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 44(6)** (with arts. 4-6)
- F774** Ss. 107(4), 112(7) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), **Sch. Pt. VI**

### Marginal Citations

- M32** 1873 c. 48.  
**M33** 1936 c. 49.

## 113 Byelaws in respect of waterways owned or managed by certain bodies.

- (1) The Minister may, on the application of any qualified body which owns or manages an inland waterway and after consultation with the relevant authority, by order confer on that body power to make byelaws in relation to that waterway for such purposes as may be specified in the order.
- (2) Byelaws made by virtue of an order under this section shall not have effect until confirmed by the Minister, and before applying to the Minister for the confirmation of any byelaws the body concerned shall take such steps as may be specified in the

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order for securing that persons affected by the byelaws have an opportunity of making representations thereon to the Minister.

- (3) If any person contravenes, or fails to comply with, any byelaws made by virtue of an order under this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F775</sup>level 1 on the standard scale], and if the contravention or failure to comply is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £5 for each day on which it is so continued.
- (4) An order under this section may contain such supplementary provisions as the Minister thinks necessary or expedient.
- (5) In this section—
- “qualified body” means any navigation authority as defined in section 135(1) of the <sup>M34</sup>Water Resources Act 1963, a body mentioned in any of the paragraphs of section 109(2) of this Act <sup>F776</sup>... and any other body having public or charitable objects;
- “relevant authority”, in relation to any order, [<sup>F777</sup>means [<sup>F778</sup>any local authority or [<sup>F779</sup>water authority] (except any such authority which is itself the applicant for the order)] [<sup>F778</sup>, except where applying for the order, Scottish Water or any local authority] [<sup>F777</sup>means, except in a case where it is itself the applicant for the order, the National Rivers Authority or any local authority] in whose area the waterway in question is wholly or partly situated.
- (6) Section 40 of the <sup>M35</sup>Railway and Canal Traffic Act 1888 (which makes provision as to the byelaws of canal companies) shall not apply to byelaws made by virtue of an order under this section.

#### Textual Amendments

- F775** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G** (as inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 54**)
- F776** Words in s. 113(5) omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 45** (with arts. 4-6)
- F777** Words commencing “means, except” substituted (E.W.) for words commencing “means any local” by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), **Sch. 25 para. 38(3)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F778** Words in s. 113(5) substituted (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), art. 1(1), **Sch. para. 7(4)**
- F779** Words substituted by virtue of [Water Act 1973 \(c. 37\)](#), **s. 9(a)**

#### Marginal Citations

- M34** 1963 c. 38.  
**M35** 1888 c. 25.

## 114 Power of local authorities to assist in maintaining waterways for amenity purposes.

Without prejudice to section 109 of this Act, a local authority may assist any other person (whether financially, by the provision of services or facilities, or otherwise) in maintaining or improving for amenity or recreational purposes, including fishing—

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- (a) any inland waterway situated wholly or partly in the area of the authority; and
- (b) any other inland waterway which is so situated that it can conveniently be used for those purposes by persons residing in the area of the authority.

*Supplementary*

**115 Interpretation of Part VII. E+W+N.I.**

- (1) In sections 105 and 112 of this Act—
- (a) references to any right of navigation over a waterway or canal include references to any right to use or keep any vessel or craft on the waterway or canal;
  - (b) “the appropriate tribunal” means, as respects England and Wales, the <sup>F780</sup>Upper] and, as respect Scotland, the Lands Tribunal for Scotland or, until sections 1 to 3 of the <sup>M36</sup>Lands Tribunal Act 1949 come into force as regards Scotland, an official arbiter appointed under Part I of the <sup>M37</sup>Land Compensation (Scotland) Act 1963;

and sections 3 and 5 of the said Act of 1963 shall apply, subject to any necessary modifications, in relation to the determination of any question under either of those sections by an arbiter so appointed.

- (2) Nothing in section 105 or in any order under section 112 of this Act shall be construed as abrogating any rights of navigation which subsist otherwise than by virtue of the enactments referred to in subsections (5) and (6) of the said section 105 or subsection (1) of the said section 112; and in those subsections references to rights conferred by an enactment do not include references to rights which are merely confirmed by it and which, if that enactment had not been passed, would subsist otherwise than by virtue of any such enactments as aforesaid.

- (3) In sections 109, 112, 113 and 114 of this Act, “local authority” means—
- (a) as respects England and Wales, the council of a county, <sup>F781</sup>... [<sup>F782</sup>district] or London borough, <sup>F783</sup>... and the Common Council of the City of London;
  - <sup>F784</sup>(b) .....
  - <sup>F785</sup>(4) .....

**Extent Information**

**E12** This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

**Textual Amendments**

- F780** Word in s. 115(1)(b) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 90** (with Sch. 5)
- F781** Words repealed by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), **Sch. 30**
- F782** Word substituted by virtue of [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), **s. 179(3)**
- F783** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F784** S. 115(3)(b) omitted by virtue of [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 18 para. 19**
- F785** S. 115(4) repealed by [Water Act 1973 \(c. 37 SIF 130\)](#), Sch. 9

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#### Marginal Citations

**M36** 1949 c. 42.

**M37** 1963 c. 51.

### 115 Interpretation of Part VII. **S**

(1) In sections 105 and 112 of this Act—

(a) references to any right of navigation over a waterway or canal include references to any right to use or keep any vessel or craft on the waterway or canal;

(b) “the appropriate tribunal” means, as respects England and Wales, the <sup>[F780]</sup>Upper] and, as respect Scotland, the Lands Tribunal for Scotland or, until sections 1 to 3 of the <sup>M71</sup>Lands Tribunal Act 1949 come into force as regards Scotland, an official arbiter appointed under Part I of the <sup>M72</sup>Land Compensation (Scotland) Act 1963;

and sections 3 and 5 of the said Act of 1963 shall apply, subject to any necessary modifications, in relation to the determination of any question under either of those sections by an arbiter so appointed.

(2) Nothing in section 105 or in any order under section 112 of this Act shall be construed as abrogating any rights of navigation which subsist otherwise than by virtue of the enactments referred to in subsections (5) and (6) of the said section 105 or subsection (1) of the said section 112; and in those subsections references to rights conferred by an enactment do not include references to rights which are merely confirmed by it and which, if that enactment had not been passed, would subsist otherwise than by virtue of any such enactments as aforesaid.

<sup>[F995]</sup> In sections 109, 112 and 113 of this Act “local authority” means a regional or islands <sup>F996</sup>(3) council and in section 114 of this Act means a regional, islands or district council.]]

<sup>[F997]</sup>(3A) In sections 109, 112, 113 and 114 of this Act, “local authority” means, as respects Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]

<sup>F998</sup>(4) . . . . .

#### Extent Information

**E33** This version of this provision extends to Scotland only; a separate version has been created for England, Wales and Northern Ireland only

#### Textual Amendments

**F780** Word in s. 115(1)(b) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 90** (with Sch. 5)

**F995** S. 115(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(9)**; S.I. 1996/323, **art. 4(1)(b)(c)**

**F996** S. 115(3) substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 18 para. 19**

**F997** S. 115(3A) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(9)**; S.I. 1996/323, **art. 4(b)(c)**

**F998** S. 115(4) repealed by [Water Act 1973 \(c. 37 SIF 130\)](#), Sch. 9

#### Marginal Citations

**M71** 1949 c. 42.

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M72 1963 c. 51.

## PART VIII

### BRIDGES, LEVEL CROSSINGS, ETC.

#### *Bridges*

#### 116 **Transfer of responsibility for maintenance of highways on bridges over** **[<sup>F786</sup>certain] railways, inland waterways, etc. E+W**

- (1) Where a highway is carried by a bridge over one or more of the following, that is to say, a railway of the Railways Board, a railway of [<sup>F787</sup>Transport for London], an inland waterway of the Waterways Board or any other installation or land used by any of those Boards in connection with a railway or inland waterway, and immediately before the appointed day—
- (a) the Board or Boards concerned are responsible for maintaining the highway carried by the bridge, or that highway together with the highway giving access to the bridge; and
  - (b) the highway at each end—
    - (i) of the bridge; or
    - (ii) if the Board or Boards are also responsible for maintaining the highway giving access to the bridge, of the bridge and any such highway,
 is a highway maintainable at the public expense,
- the highway carried by the bridge, together with any such highway as is mentioned in paragraph (b)(ii) of this subsection, shall on that day become a highway maintainable at the public expense.
- (2) Any agreement between any of the Boards mentioned in subsection (1) of this section and a highway authority, so far as it provides for that authority to carry out after the appointed day, at the expense of the Board, any maintenance for which the Board cease to be responsible by virtue of that subsection, shall cease to have effect on that day.
- (3) Where by virtue of any agreement or order made before the appointed day—
- (a) a highway authority is responsible for maintaining the highway carried by or giving access to a bridge such as is mentioned in subsection (1) of this section; and
  - (b) but for that agreement or order, any of the Boards mentioned in that subsection would by virtue thereof have ceased to be responsible for maintaining that highway on that day,
- that Board shall not by virtue of that agreement or order be liable to make to that highway authority in respect of the maintenance of that highway any annual or other periodical payment (not being an instalment of a lump sum) which falls due after that day.
- (4) Where paragraphs (a) and (b) of subsection (1) of this section are not satisfied immediately before the appointed day in the case of any such bridge as is mentioned in that subsection, or such a bridge as aforesaid is constructed after that day, then, if those paragraphs are satisfied in the case of that bridge on any subsequent day, the highway

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carried by the bridge, together with any highway giving access to the bridge for the maintenance of which the Board or Boards concerned are also responsible, shall on that subsequent day become a highway maintainable at the public expense.

<sup>F788</sup>(5) .....

(6) This section shall not affect the responsibility of any of the Boards for the maintenance of any part of a bridge or its approaches other than the surface of the highway, and a highway authority—

- (a) shall not by virtue of this section be under any duty to make good, or incur any liability by reason of, any defect in the surface of the highway so far as attributable to the failure of any of the Boards to discharge that responsibility;
- (b) shall permit the Board or Boards concerned to carry out on or in relation to the surface of the highway any works reasonably required to be carried out by them for discharging that responsibility or for inspecting, maintaining or altering any apparatus of the Board or Boards incorporated in or attached to the bridge; and
- (c) shall not, without the consent of the Board or Boards concerned, increase to a significant extent the weight of the materials constituting the surface of the highway.

(7) Nothing in this section shall affect any liability incurred by any of the Boards by reason of any act or omission in relation to any highway before the day on which they cease by virtue of this section to be responsible for its maintenance.

[<sup>F789</sup>(8) Subsection (9) applies if a network owner is, or but for this section would be, responsible for maintaining—

- (a) a highway carried by a new bridge over its railway or over any other installation or land used by the network owner in connection with its railway, or
- (b) that highway together with an access highway.

<sup>F789</sup>(9) Where—

- (a) the highway at each end of the bridge; or
- (b) if the network owner is also responsible for maintaining any access highway, the highway at each end of the bridge and any access highway,

is a highway maintainable at the public expense, the highway carried by the bridge, together with any access highway, shall be a highway maintainable at the public expense.

<sup>F789</sup>(10) In this section—

- (a) “access highway”, in relation to a bridge, means a highway giving access to the bridge; and
- (b) “new bridge” means a bridge constructed after 31st March 1994.

<sup>F789</sup>(11) Subsections (6) and (7) of this section shall have effect in relation to a network owner and any such bridge of the network owner as is mentioned in subsection (8) above as they have effect in relation to a Board.]

[<sup>F790</sup>(12) Subsection (13) applies if Canal & River Trust is, or but for this section would be, responsible for maintaining—

- (a) a highway carried by a new bridge over an inland waterway comprised in its undertaking or over any other installation or land used by Canal & River Trust in connection with such an inland waterway, or

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(b) that highway together with an access highway.

(13) Where—

- (a) the highway at each end of the bridge; or  
(b) if Canal & River Trust is also responsible for maintaining any access highway, the highway at each end of the bridge and any access highway,

is a highway maintainable at the public expense, the highway carried by the bridge, together with any access highway, shall be a highway maintainable at the public expense.

(14) In this section—

- (a) “access highway”, in relation to a bridge, means a highway giving access to the bridge; and  
(b) “new bridge” means a bridge constructed after the coming into force of the British Waterways Board (Transfer of Functions) Order 2012 ([S.I. 2012/1659](#)).

(15) Subsections (6) and (7) of this section shall have effect in relation to Canal & River Trust and any such bridge of Canal & River Trust as is mentioned in subsection (12) above as they have effect in relation to a Board.]

#### Extent Information

**E13** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

#### Textual Amendments

**F786** Word in s. 116 heading substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 46\(2\)](#) (with arts. 4-6)

**F787** Words in ss. 116-119 substituted (15.7.2003) by [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), art. 1(1), [Sch. 1 para. 4\(2\)](#)

**F788** S. 116(5) repealed (E.W.) by [Local Government Act 1972 \(c. 70\)](#), [Sch. 30](#)

**F789** S. 16(8)-(11) inserted (20.3.1996) by [S.I. 1996/420](#), art. 2, [Sch. para. 2](#)

**F790** S. 116(12)-(15) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 46\(3\)](#) (with arts. 4-6)

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

**C103** S. 116 amended by [Transport \(London\) Act 1969 \(c. 35\)](#), [Sch. 3 para. 1\(1\)\(2\)](#)

**C104** Ss. 116, 117 extended by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), ss. 6, 45, [Sch. 2 para. 21\(4\)](#)

**C105** Ss. 116-118 applied (with modifications) (21.5.1992) by [S.I. 1992/1267](#), [art. 7](#).

**C106** Ss. 116-118 applied (with modifications) (22.6.1993) by [S.I. 1993/1607](#), [art. 9](#) (with arts. 8, 12(2), 13, 14)

**C107** Ss. 116-118 applied (with modifications) (29.6.1993) by [S.I. 1993/1651](#), [art. 3\(4\)](#) (with arts. 6, 8, 9, 10(2))

Ss. 116-118 applied (with modifications) (26.7.1994) by [S.I. 1994/1803](#), [art. 6](#)

Ss. 116, 117 applied (with modifications) (18.12.1996) by [1996 c. 61](#), s. 3, [Sch. 3 para. 13](#)

Ss. 116-118 applied (with modifications) (4.5.1995) by [S.I. 1995/1236](#), [art. 3\(5\)](#)

Ss. 116-118 applied (with modifications) (10.5.1995) by [S.I. 1995/1300](#), [art. 3\(4\)](#)

Ss. 116-118 applied (with modifications) (21.9.1995) by [S.I. 1995/2501](#), [art. 8](#)

Ss. 116-118 applied (with modifications) (16.10.1996) by [S.I. 1996/2660](#), [art. 4\(7\)](#)

Ss. 116-118 applied (with modifications) (23.9.1997) by [S.I. 1997/2262](#), [art. 4\(3\)](#)

Ss. 116-118 applied (with modifications) (9.10.1997) by [S.I. 1997/2534](#), [art. 7](#)



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- Ss. 116-118 applied (with modifications) (21.7.1999) by S.I. 1999/2382, **art. 4(2)**
- Ss. 116-118 applied (with modifications) (4.8.2000) by S.I. 2000/2585, **art. 4(2)**
- Ss. 116-118 applied (with modifications) (12.8.2002) by S.I. 2002/1997, **art. 9(1)**
- C108** Ss. 116-119 applied (with modifications) (1.9.1993) by S.I. 1993/2154, **art. 3(4)**
- Ss. 116-119 applied (with modifications) (16.5.2002) by S.I. 2002/1384, **art. 3(4)** (with arts. 10(2), 11)
- C109** Ss. 116-119 modified (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), **art. 1(1), Sch. 1 para. 4(4)**
- C110** Ss. 116-118 applied (with modifications) (3.8.2004) by The Eden Valley Railway Order 2004 (S.I. 2004/1817), **arts. 1, 3(2)**
- C111** Ss. 116-118 applied (with modifications) (30.11.2007) by The East Kent Railway Order 2007 (S.I. 2007/3234), **arts. 1, 4(2)**
- C112** S. 116 applied (with modifications) (22.7.2008) by Crossrail Act 2008 (c. 18), **Sch. 3 para. 13**
- C113** Ss. 116-118 applied (16.8.2012) by The Nene Valley Railway (Fletton Branch) Order 2012 (S.I. 2012/1993), **arts. 1(1), 3(3)** (with art. 4)
- C114** Ss. 116-118 applied (with modifications) (26.6.2014) by The Swanage Railway Order 2014 (S.I. 2014/1604), **arts. 1(1), 3(2)** (with art. 5)
- C115** Ss. 116-118 applied (with modifications) (28.9.2015) by The Ecclesbourne Valley Railway Order 2015 (S.I. 2015/1652), **arts. 1, 4(1)(c)** (with art. 6(5))
- C116** S. 116 modified (23.2.2017) by High Speed Rail (London - West Midlands) Act 2017 (c. 7), s. 70(1), **Sch. 4 para. 18**
- C117** S. 116 applied (5.11.2020) by The Wear Valley Railway (Transfer) Order 2020 (S.I. 2020/1137), **arts. 1, 9(1)** (with arts. 6(2), 9(2))
- C118** S. 116 modified (11.2.2021) by High Speed Rail (West Midlands - Crewe) Act 2021 (c. 2), s. 64(1), **Sch. 4 para. 21**

**116 Transfer of responsibility for maintenance of highways on bridges over**  
**[<sup>F786</sup>certain] railways, inland waterways, etc. S**

- (1) Where a highway is carried by a bridge over one or more of the following, that is to say, a railway of the Railways Board, a railway of [<sup>F999</sup>London Regional Transport], an inland waterway of the Waterways Board or any other installation or land used by any of those Boards in connection with a railway or inland waterway, and immediately before the appointed day—
- (a) the Board or Boards concerned are responsible for maintaining the highway carried by the bridge, or that highway together with the highway giving access to the bridge; and
  - (b) the highway at each end—
    - (i) of the bridge; or
    - (ii) if the Board or Boards are also responsible for maintaining the highway giving access to the bridge, of the bridge and any such highway,
- is a highway maintainable at the public expense,
- the highway carried by the bridge, together with any such highway as is mentioned in paragraph (b)(ii) of this subsection, shall on that day become a highway maintainable at the public expense.
- (2) Any agreement between any of the Boards mentioned in subsection (1) of this section and a highway authority, so far as it provides for that authority to carry out after the appointed day, at the expense of the Board, any maintenance for which the Board cease to be responsible by virtue of that subsection, shall cease to have effect on that day.
- (3) Where by virtue of any agreement or order made before the appointed day—

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- (a) a [<sup>F1000</sup>roads] authority is responsible for maintaining the [<sup>F1000</sup>road] carried by or giving access to a bridge such as is mentioned in subsection (1) of this section; and
- (b) but for that agreement or order, any of the Boards mentioned in that subsection would by virtue thereof have ceased to be responsible for maintaining that [<sup>F1000</sup>road] on that day,

that Board shall not by virtue of that agreement or order be liable to make to that [<sup>F1000</sup>roads] authority in respect of the maintenance of that [<sup>F1000</sup>road] any annual or other periodical payment (not being an instalment of a lump sum) which falls due after that day.

[<sup>F1001</sup>(4) Where paragraphs (a) and (b) of subsection (1) of this section are not satisfied immediately before the appointed day in the case of such bridge as is mentioned in that subsection, or such a bridge as aforesaid is constructed is constructed after that day, then if on any subsequent day—

- (a) the Board or Boards concerned are responsible for maintaining the road carried by the bridge, or that road together with the road giving access to the bridge (the “access road”); and
- (b) the road at each end—
  - (i) of the bridge; or
  - (ii) if the Board or Boards are also responsible for maintaining the access road, of the bridge and the access road,

the road (or roads) for which they are so responsible shall forthwith be entered by the local roads authority in the list of public roads kept by the authority under section 1 of the Roads (Scotland) Act <sup>M73</sup>1984.]

(6) [<sup>F1002</sup>Without prejudice to the provisions of the said Act of 1984,] This section shall not affect the responsibility of any of the Boards for the maintenance of any part of a bridge or its approaches other than the surface of the [<sup>F1003</sup>road], and a [<sup>F1003</sup>road] authority—

- (a) shall not by virtue of this section be under any duty to make good, or incur any liability by reason of, any defect in the surface of the [<sup>F1003</sup>road] so far as attributable to the failure of any of the Boards to discharge that responsibility;
- (b) shall permit the Board or Boards concerned to carry out on or in relation to the surface of the [<sup>F1003</sup>road] any works reasonably required to be carried out by them for discharging that responsibility or for inspecting, maintaining or altering any apparatus of the Board or Boards incorporated in or attached to the bridge; and
- (c) shall not, without the consent of the Board or Boards concerned, increase to a significant extent the weight of the materials constituting the surface of the [<sup>F1003</sup>road].

(7) Nothing in this section shall affect any liability incurred by any of the Boards by reason of any act or omission in relation to any [<sup>F1003</sup>road] before the day on which they cease by virtue of this section to be responsible for its maintenance.

[<sup>F1004</sup>(8) Subsection (9) applies if a network owner is, or but for this section would be, responsible for maintaining—

- (a) a highway carried by a new bridge over its railway or over any other installation or land used by the network owner in connection with its railway, or
- (b) that highway together with an access highway.

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- <sup>F1004</sup>(9) Where—
- (a) the highway at each end of the bridge; or
  - (b) if the network owner is also responsible for maintaining any access highway, the highway at each end of the bridge and any access highway,
- is a highway maintainable at the public expense, the highway carried by the bridge, together with any access highway, shall be a highway maintainable at the public expense.
- <sup>F1004</sup>(10) In this section—
- (a) “access highway”, in relation to a bridge, means a highway giving access to the bridge; and
  - (b) “new bridge” means a bridge constructed after 31st March 1994.
- <sup>F1004</sup>(11) Subsections (6) and (7) of this section shall have effect in relation to a network owner and any such bridge of the network owner as is mentioned in subsection (8) above as they have effect in relation to a Board.]
- [<sup>F790</sup>(12) Subsection (13) applies if Canal & River Trust is, or but for this section would be, responsible for maintaining—
- (a) a highway carried by a new bridge over an inland waterway comprised in its undertaking or over any other installation or land used by Canal & River Trust in connection with such an inland waterway, or
  - (b) that highway together with an access highway.
- (13) Where—
- (a) the highway at each end of the bridge; or
  - (b) if Canal & River Trust is also responsible for maintaining any access highway, the highway at each end of the bridge and any access highway,
- is a highway maintainable at the public expense, the highway carried by the bridge, together with any access highway, shall be a highway maintainable at the public expense.
- (14) In this section—
- (a) “access highway”, in relation to a bridge, means a highway giving access to the bridge; and
  - (b) “new bridge” means a bridge constructed after the coming into force of the British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659).
- (15) Subsections (6) and (7) of this section shall have effect in relation to Canal & River Trust and any such bridge of Canal & River Trust as is mentioned in subsection (12) above as they have effect in relation to a Board.]

#### Extent Information

**E34** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

#### Textual Amendments

**F786** Word in s. 116 heading substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 46\(2\)](#) (with arts. 4-6)

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- F790** S. 116(12)-(15) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 46(3)** (with arts. 4-6)
- F999** Words substituted by virtue of [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), **Sch. 4 Pt. I para. 4(1)**
- F1000** Words in s. 116(3) substituted (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), **Sch. 9 para. 66(2)(a)**
- F1001** S. 116(4) substituted (S.) for s. 116(4)(5) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), **Sch. 9 para. 66(2)(b)**
- F1002** Words in s. 116(6) inserted (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), **Sch. 9 para. 66(2)(c)(i)**
- F1003** Words in s. 116(6)(7) substituted (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), **Sch. 9 para. 66(2)(c)(ii)**
- F1004** S. 116(8)-(11) inserted (20.3.1996) by [S.I. 1996/420](#), art. 2, **Sch. para. 2**

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

- C109** Ss. 116-119 modified (15.7.2003) by [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), art. 1(1), **Sch. 1 para. 4(4)**
- C110** Ss. 116-118 applied (with modifications) (3.8.2004) by [The Eden Valley Railway Order 2004 \(S.I. 2004/1817\)](#), arts. 1, **3(2)**
- C111** Ss. 116-118 applied (with modifications) (30.11.2007) by [The East Kent Railway Order 2007 \(S.I. 2007/3234\)](#), arts. 1, **4(2)**
- C112** S. 116 applied (with modifications) (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), **Sch. 3 para. 13**
- C113** Ss. 116-118 applied (16.8.2012) by [The Nene Valley Railway \(Fletton Branch\) Order 2012 \(S.I. 2012/1993\)](#), arts. **1(1)**, **3(3)** (with art. 4)
- C114** Ss. 116-118 applied (with modifications) (26.6.2014) by [The Swanage Railway Order 2014 \(S.I. 2014/1604\)](#), arts. **1(1)**, **3(2)** (with art. 5)
- C115** Ss. 116-118 applied (with modifications) (28.9.2015) by [The Ecclesbourne Valley Railway Order 2015 \(S.I. 2015/1652\)](#), arts. 1, **4(1)(c)** (with art. 6(5))
- C116** S. 116 modified (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\)](#), s. 70(1), **Sch. 4 para. 18**
- C117** S. 116 applied (5.11.2020) by [The Wear Valley Railway \(Transfer\) Order 2020 \(S.I. 2020/1137\)](#), arts. 1, **9(1)** (with arts. 6(2), 9(2))
- C118** S. 116 modified (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\)](#), s. 64(1), **Sch. 4 para. 21**
- C169** S. 116 amended by [Transport \(London\) Act 1969 \(c. 35\)](#), **Sch. 3 para. 1(1)(2)**
- C170** Ss. 116, 117 extended by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), ss. 6, 45, **Sch. 2 para. 21(4)**
- C171** Ss. 116-118 applied (with modifications) (21.5.1992) by [S.I. 1992/1267](#), art. 7.
- C172** Ss. 116-118 applied (with modifications) (22.6.1993) by [S.I. 1993/1607](#), art. 9 (with arts. 8, 12(2), 13, 14)
- C173** Ss. 116-118 applied (with modifications) (29.6.1993) by [S.I. 1993/1651](#), art. **3(4)** (with arts. 6, 8, 9, 10(2))
- Ss. 116-118 applied (with modifications) (26.7.1994) by [S.I. 1994/1803](#), art. 6
- Ss. 116, 117 applied (with modifications) (18.12.1996) by [1996 c. 61](#), 3, Sch. 3 para. 13
- Ss. 116-118 applied (with modifications) (4.5.1995) by [S.I. 1995/1236](#), art. **3(5)**
- Ss. 116-118 applied (with modifications) (10.5.1995) by [S.I. 1995/1300](#), art. **3(4)**
- Ss. 116-118 applied (with modifications) (21.9.1995) by [S.I. 1995/2501](#), art. 8
- Ss. 116-118 applied (with modifications) (16.10.1996) by [S.I. 1996/2660](#), art. **4(7)**
- Ss. 116-118 applied (with modifications) (23.9.1997) by [S.I. 1997/2262](#), art. **4(3)**
- Ss. 116-118 applied (with modifications) (9.10.1997) by [S.I. 1997/2534](#), art. 7
- Ss. 116-118 applied (with modifications) (21.7.1999) by [S.I. 1999/2382](#), art. **4(2)**
- Ss. 116-118 applied (with modifications) (4.8.2000) by [S.I. 2000/2585](#), art. **4(2)**
- Ss. 116-118 applied (with modifications) (12.8.2002) by [S.I. 2002/1997](#), art. **9(1)**
- C174** Ss. 116-119 applied (with modifications) (1.9.1993) by [S.I. 1993/2154](#), art. **3(4)**

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*Changes to legislation: Transport Act 1968 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Ss. 116-119 applied (with modifications) (16.5.2002) by S.I. 2002/1384, art. 3(4) (with arts. 10(2), 11)

#### Marginal Citations

M73 1984 c. 54.

### 117 **Duty**<sup>F791</sup> ... as respects bridges carrying highways. **E+W**

(1) This section applies to any bridge which—

- (a) carries a highway over one or more of the following that is to say, a railway of the Railways Board, a railway of [<sup>F787</sup>Transport for London], an inland waterway of the Waterways Board or any other installation or land used by any of those Boards in connection with a railway or inland waterway; and
- (b) belongs to the Board or Boards whose railway, waterway, installation or land is crossed by the bridge.

[<sup>F792</sup>(1A) This section also applies to a bridge (whenever constructed) which—

- (a) carries a highway over—
  - (i) a railway comprised in a transferred network or a new network of a network owner, or
  - (ii) any other installation or land used by a network owner in connection with a railway or network comprised in a transferred network or a new network of that network owner, and
- (b) belongs to the network owner whose railway, installation or land is crossed by the bridge,

and in relation to any such bridge references in this section to each of the Boards or a Board are, subject to subsection (1B) of this section, to be read as references to the network owner.

<sup>F792</sup>(1B) Subsection (7) applies in relation to a bridge constructed by or belonging to a network owner and one or more of the Boards mentioned in subsection (1) of this section as it applies in relation to a bridge constructed by or belonging to any two or more Boards.]

[<sup>F793</sup>(1C) This section also applies to a bridge (whenever constructed) which —

- (a) carries a highway over an inland waterway of Canal & River Trust or any other installation or land used by Canal & River Trust in connection with an inland waterway, and
- (b) belongs to Canal & River Trust,

and in relation to any such bridge references in this section to each of the Boards or a Board are, subject to subsection (1D), to be read as references to Canal & River Trust.

(1D) Subsection (7) applies in relation to a bridge constructed by or belonging to—

- (a) Canal & River Trust and one or more of the Boards mentioned in subsection (1) of this section;
- (b) Canal & River Trust and a network owner; or
- (c) Canal & River Trust, one or more of the Boards mentioned in subsection (1) of this section and a network owner,

as it applies in relation to a bridge constructed by or belonging to any two or more Boards.]

[<sup>F794</sup>(1E) This section also applies to a bridge (whenever constructed) which—

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- (a) carries a highway over a railway of the Secretary of State, or any other installation or land used by the Secretary of State in connection with a railway, and
  - (b) belongs to the Secretary of State;
- and in relation to any such bridge references in this section to each of the Boards or a Board are, subject to subsection (1F), to be read as references to the Secretary of State.
- (1F) Subsection (7) applies in relation to a bridge constructed by or belonging to—
- (a) the Secretary of State and one or more of the Boards mentioned in subsection (1) of this section;
  - (b) the Secretary of State and a network owner;
  - (c) the Secretary of State and Canal & River Trust; or
  - (d) the Secretary of State and one or more of the Boards mentioned in subsection (1) of this section, a network owner and Canal & River Trust;
- as it applies in relation to a bridge constructed by or belonging to any two or more Boards.]
- (2) It shall be the duty of each of the Boards mentioned in subsection (1) of this section—
- (a) in constructing a bridge which, on completion, will belong to the Board and be a bridge to which this section applies, or in reconstructing a bridge which belongs to the Board and to which this section applies, to secure that it has the required load-bearing capacity;
  - (b) to maintain and, if necessary, to improve or strengthen any bridge which belongs to the Board and to which this section applies so that it has the required load-bearing capacity, and, if at any time it is not reasonably practicable to secure that it has that capacity by means of maintenance, improvement or strengthening, to reconstruct the bridge or to replace it by a new bridge.
- (3) For the purposes of subsection (2) of this section a bridge has the required load-bearing capacity—
- (a) in the case of a bridge in relation to which load-bearing standards are prescribed by an order made by the appropriate Minister, if it complies with those standards; and
  - (b) in the case of any other bridge, if it is such as to be capable of bearing the weight of the traffic which ordinarily uses, or may reasonably be expected to use, the highway carried by the bridge on or about the day on which this section comes into force in relation to bridges of the Board concerned or, if the bridge is constructed subsequently, when it is opened for traffic.
- (4) An order made for the purposes of subsection (3)(a) of this section—
- (a) may prescribe standards for a particular bridge or for any class or description of bridges;
  - (b) may, in prescribing standards for a particular bridge or for any class or description of bridges, at the same time prescribe different standards for any bridge or bridges resulting from the reconstruction or replacement of that bridge or of any of those bridges;
  - (c) may prescribe standards by reference to any document published by the British Standards Institution, any government department or any other body or authority, and provide that where standards are prescribed as aforesaid any question as to the requirements to be fulfilled by a particular bridge in order

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- to comply with those standards shall be determined, in case of dispute, by a certificate of the appropriate Minister;
- (d) shall not, so long as a bridge is not reconstructed or replaced, be such as to require the bridge to comply with standards higher than those prescribed in relation thereto by a previous order under this section.
- (5) For the purposes of subsection (3)(b) of this section, no account shall be taken of any traffic which cannot use the highway carried by the bridge in question without infringing a prohibition for the time being in force under section 1, 6, [<sup>F795</sup> or 14 of the Road Traffic Regulation Act 1984].
- (6) The requirements of this section shall be in addition to, and, so far as inconsistent therewith, shall prevail over, any requirements applicable to the bridge in question under section 46, 50, 51, 52, or 66 of the <sup>M38</sup>Railways Clauses Consolidation Act 1845, section 39, 43, 44, 45, or 58 of the <sup>M39</sup>Railways Clauses Consolidation (Scotland) Act 1845 or under any similar enactment.
- (7) In subsection (2) of this section references to a bridge being constructed by or belonging to a Board include references to its being constructed by or belonging to any two or more of the Boards mentioned in subsection (1) of this section, and in any such case the duties imposed by the said subsection (2) shall be duties of both or all of those Boards.
- (8) In this section “the appropriate Minister” means, as respects bridges in England, the Minister [<sup>F796</sup> as respects bridges in Scotland, the Scottish Ministers] and as respects bridges in <sup>F797</sup> . . . Wales, the Secretary of State.

#### Extent Information

- E14** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

#### Textual Amendments

- F787** Words in ss. 116-119 substituted (15.7.2003) by [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), art. 1(1), **Sch. 1 para. 4(2)**
- F791** Words in s. 117 heading omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 47(2)** (with arts. 4-6)
- F792** S. 117(1A)(1B) inserted (20.3.1996) by S.I. 1996/420, art. 2, **Sch. para. 3**
- F793** S. 117(1C)(1D) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 47(3)** (with arts. 4-6)
- F794** S. 117(1E)(1F) inserted (30.9.2013) by [The Public Bodies \(Abolition of BRB \(Residuary\) Limited\) Order 2013 \(S.I. 2013/2314\)](#), arts. 1(2), **5(2)**
- F795** Words substituted by [Road Traffic Regulations Act 1984 \(c. 27, SIF 107:1\)](#), s. 144, **Sch. 13 para. 7**
- F796** Words in s. 117(8) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II**, para. 3(29)(a) (with art. 4)
- F797** Words in s. 117(8) repealed (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II**, para. 3(29)(b) (with art. 4)

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

- C109** Ss. 116-119 modified (15.7.2003) by [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), art. 1(1), **Sch. 1 para. 4(4)**
- C110** Ss. 116-118 applied (with modifications) (3.8.2004) by [The Eden Valley Railway Order 2004 \(S.I. 2004/1817\)](#), arts. 1, **3(2)**

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- C111** Ss. 116-118 applied (with modifications) (30.11.2007) by [The East Kent Railway Order 2007 \(S.I. 2007/3234\)](#), arts. 1, **4(2)**
- C113** Ss. 116-118 applied (16.8.2012) by [The Nene Valley Railway \(Fletton Branch\) Order 2012 \(S.I. 2012/1993\)](#), arts. **1(1)**, **3(3)** (with art. 4)
- C114** Ss. 116-118 applied (with modifications) (26.6.2014) by [The Swanage Railway Order 2014 \(S.I. 2014/1604\)](#), arts. **1(1)**, **3(2)** (with art. 5)
- C115** Ss. 116-118 applied (with modifications) (28.9.2015) by [The Ecclesbourne Valley Railway Order 2015 \(S.I. 2015/1652\)](#), arts. 1, **4(1)(c)** (with art. 6(5))
- C119** S. 117 amended by [Transport \(London\) Act 1969 \(c. 35\)](#), **Sch. 3 para. 1(1)(2)**
- C120** Ss. 116, 117 extended by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), ss. 6, 45, **Sch. 2 para. 21(4)**
- C121** Ss. 116-118 applied (with modifications) (21.5.1992) by [S.I. 1992/1267](#), **art. 7**.
- C122** Ss. 116-118 applied (with modifications) (22.6.1993) by [S.I. 1993/1607](#), **art. 9** (with arts. 8, 12(2), 13, 14)
- C123** Ss. 116-118 applied (with modifications) (29.6.1993) by [S.I. 1993/1651](#), **art. 3(4)** (with arts. 6, 8, 9, 10(2))
- Ss. 116, 117 applied (with modifications) (18.12.1996) by [1996 c. 61, s. 3](#), **Sch. 3 para. 13**
- Ss. 116-118 applied (with modifications) (26.7.1994) by [S.I. 1994/1803](#), **art. 6**
- Ss. 116-118 applied (with modifications) (4.5.1995) by [S.I. 1995/1236](#), **art. 3(5)**
- Ss. 116-118 applied (with modifications) (10.5.1995) by [S.I. 1995/1300](#), **art. 3(4)**
- Ss. 116-118 applied (with modifications) (21.9.1995) by [S.I. 1995/2501](#), **art. 8**
- Ss. 116-118 applied (with modifications) (16.10.1996) by [S.I. 1996/2660](#), **art. 4(7)**
- Ss. 116-118 applied (with modifications) (23.9.1997) by [S.I. 1997/2262](#), **art. 4(3)**
- Ss. 116-118 applied (with modifications) (9.10.1997) by [S.I. 1997/2534](#), **art. 7**
- Ss. 116-118 applied (with modifications) (21.7.1999) by [S.I. 1999/2382](#), **art. 4(2)**
- Ss. 116-118 applied (with modifications) (4.8.2000) by [S.I. 2000/2585](#), **art. 4(2)**
- Ss. 116-118 applied (with modifications) (12.8.2002) by [S.I. 2002/1997](#), **art. 9(1)**
- C124** Ss. 116-119 applied (with modifications) (1.9.1993) by [S.I. 1993/2154](#), **art. 3(4)**
- Ss. 116-119 applied (with modifications) (16.5.2002) by [S.I. 2002/1384](#), **art. 3(4)** (with arts. 10(2), 11)
- C125** S. 117 applied (with modifications) (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), **Sch. 3 para. 13**
- C126** [S. 117](#) modified (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\)](#), s. 70(1), **Sch. 4 para. 18**
- C127** [S. 117](#) applied (5.11.2020) by [The Wear Valley Railway \(Transfer\) Order 2020 \(S.I. 2020/1137\)](#), arts. 1, **9(1)** (with arts. 6(2), 9(2))
- C128** [S. 117](#) modified (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\)](#), s. 64(1), **Sch. 4 para. 21**

#### Marginal Citations

- M38** 1845 c. 20.  
**M39** 1845 c. 33.

## 117 **Duty**<sup>F791</sup> ... as respects bridges carrying highways. **S**

(1) This section applies to any bridge which—

- (a) carries a [<sup>F1005</sup>road] over one or more of the following that is to say, a railway of the Railways Board, a railway of [<sup>F1006</sup>London Regional Transport], an inland waterway of the Waterways Board or any other installation or land used by any of those Boards in connection with a railway or inland waterway; and
- (b) belongs to the Board or Boards whose railway, waterway, installation or land is crossed by the bridge.

[<sup>F1007</sup>(1A) This section also applies to a bridge (whenever constructed) which—

- (a) carries a highway over—



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- (i) a railway comprised in a transferred network or a new network of a network owner, or
    - (ii) any other installation or land used by a network owner in connection with a railway or network comprised in a transferred network or a new network of that network owner, and
  - (b) belongs to the network owner whose railway, installation or land is crossed by the bridge,
- and in relation to any such bridge references in this section to each of the Boards or a Board are, subject to subsection (1B) of this section, to be read as references to the network owner.
- <sup>F1007</sup>(1B) Subsection (7) applies in relation to a bridge constructed by or belonging to a network owner and one or more of the Boards mentioned in subsection (1) of this section as it applies in relation to a bridge constructed by or belonging to any two or more Boards.]
- <sup>F793</sup>(1C) This section also applies to a bridge (whenever constructed) which —
- (a) carries a highway over an inland waterway of Canal & River Trust or any other installation or land used by Canal & River Trust in connection with an inland waterway, and
  - (b) belongs to Canal & River Trust,
- and in relation to any such bridge references in this section to each of the Boards or a Board are, subject to subsection (1D), to be read as references to Canal & River Trust.
- (1D) Subsection (7) applies in relation to a bridge constructed by or belonging to—
- (a) Canal & River Trust and one or more of the Boards mentioned in subsection (1) of this section;
  - (b) Canal & River Trust and a network owner; or
  - (c) Canal & River Trust, one or more of the Boards mentioned in subsection (1) of this section and a network owner,
- as it applies in relation to a bridge constructed by or belonging to any two or more Boards.]
- <sup>F794</sup>(1E) This section also applies to a bridge (whenever constructed) which—
- (a) carries a highway over a railway of the Secretary of State, or any other installation or land used by the Secretary of State in connection with a railway, and
  - (b) belongs to the Secretary of State;
- and in relation to any such bridge references in this section to each of the Boards or a Board are, subject to subsection (1F), to be read as references to the Secretary of State.
- (1F) Subsection (7) applies in relation to a bridge constructed by or belonging to—
- (a) the Secretary of State and one or more of the Boards mentioned in subsection (1) of this section;
  - (b) the Secretary of State and a network owner;
  - (c) the Secretary of State and Canal & River Trust; or
  - (d) the Secretary of State and one or more of the Boards mentioned in subsection (1) of this section, a network owner and Canal & River Trust;
- as it applies in relation to a bridge constructed by or belonging to any two or more Boards.]
- (2) It shall be the duty of each of the Boards mentioned in subsection (1) of this section—

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- (a) in constructing a bridge which, on completion, will belong to the Board and be a bridge to which this section applies, or in reconstructing a bridge which belongs to the Board and to which this section applies, to secure that it has the required load-bearing capacity;
  - (b) to maintain and, if necessary, to improve or strengthen any bridge which belongs to the Board and to which this section applies so that it has the required load-bearing capacity, and, if at any time it is not reasonably practicable to secure that it has that capacity by means of maintenance, improvement or strengthening, to reconstruct the bridge or to replace it by a new bridge.
- (3) For the purposes of subsection (2) of this section a bridge has the required load-bearing capacity—
- (a) in the case of a bridge in relation to which load-bearing standards are prescribed by an order made by the appropriate Minister, if it complies with those standards; and
  - (b) in the case of any other bridge, if it is such as to be capable of bearing the weight of the traffic which ordinarily uses, or may reasonably be expected to use, the highway carried by the bridge on or about the day on which this section comes into force in relation to bridges of the Board concerned or, if the bridge is constructed subsequently, <sup>F1008</sup>—
    - (i) when the bridge is opened (the date of opening being before 1st January 1985) for traffic on the highway so carried;
    - (ii) when the bridge is opened (the date of opening being on or after 1st January 1985) for traffic on the road so carried.]
- (4) An order made for the purposes of subsection (3)(a) of this section—
- (a) may prescribe standards for a particular bridge or for any class or description of bridges;
  - (b) may, in prescribing standards for a particular bridge or for any class or description of bridges, at the same time prescribe different standards for any bridge or bridges resulting from the reconstruction or replacement of that bridge or of any of those bridges;
  - (c) may prescribe standards by reference to any document published by the British Standards Institution, any government department or any other body or authority, and provide that where standards are prescribed as aforesaid any question as to the requirements to be fulfilled by a particular bridge in order to comply with those standards shall be determined, in case of dispute, by a certificate of the appropriate Minister;
  - (d) shall not, so long as a bridge is not reconstructed or replaced, be such as to require the bridge to comply with standards higher than those prescribed in relation thereto by a previous order under this section.
- (5) For the purposes of subsection (3)(b) of this section, no account shall be taken of any traffic which cannot use the highway <sup>F1009</sup>, or as the case may be road,] carried by the bridge in question without infringing a prohibition for the time being in force under section 1, 6, <sup>F1010</sup> or 14 of the Road Traffic Regulation Act 1984].
- (6) The requirements of this section shall be in addition to, and, so far as inconsistent therewith, shall prevail over, any requirements applicable to the bridge in question under section 46, 50, 51, 52, or 66 of the <sup>M74</sup>Railways Clauses Consolidation Act 1845, section 39, 43, 44, 45, or 58 of the <sup>M75</sup>Railways Clauses Consolidation (Scotland) Act 1845 or under any similar enactment.

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- (7) In subsection (2) of this section references to a bridge being constructed by or belonging to a Board include references to its being constructed by or belonging to any two or more of the Boards mentioned in subsection (1) of this section, and in any such case the duties imposed by the said subsection (2) shall be duties of both or all of those Boards.
- (8) In this section “the appropriate Minister” means, as respects bridges in England, the Minister <sup>F1011</sup> as respects bridges in Scotland, the Scottish Ministers]and as respects bridges in <sup>F1012</sup> . . . Wales, the Secretary of State.

### Extent Information

- E35** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

### Textual Amendments

- F791** Words in s. 117 heading omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 47(2)** (with arts. 4-6)
- F793** S. 117(1C)(1D) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 47(3)** (with arts. 4-6)
- F794** S. 117(1E)(1F) inserted (30.9.2013) by [The Public Bodies \(Abolition of BRB \(Residuary\) Limited\) Order 2013 \(S.I. 2013/2314\)](#), arts. 1(2), **5(2)**
- F1005** Word in s. 117(1) substituted (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54\)](#), s. 157(2), **Sch. 9 para. 66(3)(a)**.
- F1006** Words substituted by virtue of [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), **Sch. 4 Pt. I para. 4(1)**
- F1007** S. 117(1A)(1B) inserted (20.3.1996) by [S.I. 1996/420](#), art. 2, **Sch. para. 3**
- F1008** Words in s. 117(3) substituted (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), **Sch. 9 para. 66(3)(b)**
- F1009** Words inserted (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), **Sch. 9 para. 66(3)(c)**
- F1010** Words substituted by [Road Traffic Regulations Act 1984 \(c. 27, SIF 107:1\)](#), s. 144, **Sch. 13 para. 7**
- F1011** Words in s. 117(8) inserted (1.4.2001) by [S.I. 2000/3251](#), arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(29)(a)** (with art. 4)
- F1012** Words in s. 117(8) omitted (1.4.2001) by [S.I. 2000/3251](#), arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(29)(b)** (with art. 4)

### Modifications etc. (not altering text)

- C109** Ss. 116-119 modified (15.7.2003) by [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), art. 1(1), **Sch. 1 para. 4(4)**
- C110** Ss. 116-118 applied (with modifications) (3.8.2004) by [The Eden Valley Railway Order 2004 \(S.I. 2004/1817\)](#), arts. 1, **3(2)**
- C111** Ss. 116-118 applied (with modifications) (30.11.2007) by [The East Kent Railway Order 2007 \(S.I. 2007/3234\)](#), arts. 1, **4(2)**
- C113** Ss. 116-118 applied (16.8.2012) by [The Nene Valley Railway \(Fletton Branch\) Order 2012 \(S.I. 2012/1993\)](#), arts. **1(1)**, **3(3)** (with art. 4)
- C114** Ss. 116-118 applied (with modifications) (26.6.2014) by [The Swanage Railway Order 2014 \(S.I. 2014/1604\)](#), arts. **1(1)**, **3(2)** (with art. 5)
- C115** Ss. 116-118 applied (with modifications) (28.9.2015) by [The Ecclesbourne Valley Railway Order 2015 \(S.I. 2015/1652\)](#), arts. 1, **4(1)(c)** (with art. 6(5))
- C125** S. 117 applied (with modifications) (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), **Sch. 3 para. 13**

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- C126** S. 117 modified (23.2.2017) by High Speed Rail (London - West Midlands) Act 2017 (c. 7), s. 70(1), **Sch. 4 para. 18**
- C127** S. 117 applied (5.11.2020) by The Wear Valley Railway (Transfer) Order 2020 (S.I. 2020/1137), arts. 1, **9(1)** (with arts. 6(2), 9(2))
- C128** S. 117 modified (11.2.2021) by High Speed Rail (West Midlands - Crewe) Act 2021 (c. 2), s. 64(1), **Sch. 4 para. 21**
- C175** S. 117 amended by Transport (London) Act 1969 (c. 35), **Sch. 3 para. 1(1)(2)**
- C176** Ss. 116, 117 extended by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 6, 45, **Sch. 2 para. 21(4)**
- C177** Ss. 116-118 applied (with modifications) (21.5.1992) by S.I. 1992/1267, **art. 7**.
- C178** Ss. 116-118 applied (with modifications) (22.6.1993) by S.I. 1993/1607, **art. 9** (with arts. 8, 12(2), 13, 14)
- C179** Ss. 116-118 applied (with modifications) (29.6.1993) by S.I. 1993/1651, **art. 3(4)** (with arts. 6, 8, 9, 10(2))
- Ss. 116, 117 applied (with modifications) (18.12.1996) by 1996 c. 61, s. 3, **Sch. 3 para. 13**
- Ss. 116-118 applied (with modifications) (26.7.1994) by S.I. 1994/1803, **art. 6**
- ss. 116-118 applied (with modifications) (4.5.1995) by S.I. 1995/1236, **art. 3(5)**
- Ss. 116-118 applied (with modifications) (10.5.1995) by S.I. 1995/1300, **art. 3(4)**
- Ss. 116-118 applied (with modifications) (21.9.1995) by S.I. 1995/2501, **art. 8**
- Ss. 116-118 applied (with modifications) (16.10.1996) by S.I. 1996/2660, **art. 4(7)**
- Ss. 116-118 applied (with modifications) (23.9.1997) by S.I. 1997/2262, **art. 4(3)**
- Ss. 116-118 applied (with modifications) (9.10.1997) by S.I. 1997/2534, **art. 7**
- Ss. 116-118 applied (with modifications) (21.7.1999) by S.I. 1999/2382, **art. 4(2)**
- Ss. 116-118 applied (with modifications) (4.8.2000) by S.I. 2000/2585, **art. 4(2)**
- Ss. 116-118 applied (with modifications) (12.8.2002) by S.I. 2000/1997, **art. 9(1)**
- C180** Ss. 116-119 applied (with modifications) (1.9.1993) by S.I. 1993/2154, **art. 3(4)**
- Ss. 116-119 applied (with modifications) (16.5.2002) by S.I. 2002/1384, **art. 3(4)** (with arts. 10(2), 11)

#### Marginal Citations

- M74** 1845 c. 20.  
**M75** 1845 c. 33.

### 118 Duty of highway authorities, etc., as respects bridges over <sup>[F798]</sup>certain] railways or inland waterways. **E+W**

- (1) This section applies to any bridge, including a bridge constructed after the day on which this section comes into force, which—
- (a) carries a highway over one or more of the following, that is to say, a railway of the Railways Board, a railway of <sup>[F787]</sup>Transport for London] or an inland waterway of the Waterways Board; and
  - (b) belongs to the Minister, the Secretary of State, a local highway authority or some other person not being the Board or Boards whose railway or waterway is crossed by the bridge.

<sup>[F799]</sup>(1A) This section also applies to any bridge (whenever constructed) which—

- (a) carries a highway over a railway comprised in a transferred network or a new network of a network owner, but
- (b) does not belong to the network owner,

and in relation to any such bridge references in this section to any of the said Boards or a Board are to be read as references to the network owner.]

<sup>[F800]</sup>(1B) This section also applies to any bridge (whenever constructed) which —

- (a) carries a highway over an inland waterway of Canal & River Trust, but

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- (b) does not belong to Canal & River Trust,  
and in relation to any such bridge references in this section to any of the said Boards or a Board are to be read as references to Canal & River Trust.]
- [<sup>F801</sup>(1C) This section also applies to any bridge (whenever constructed) which—
- (a) carries a highway over a railway of the Secretary of State, but
  - (b) does not belong to the Secretary of State,
- and in relation to any such bridge references in this section to any of the said Boards or a Board are to be read as references to the Secretary of State.]
- (2) Subject to subsections (4) and (5) of this section, it shall be the duty of the person to whom a bridge to which this section applies belongs (in this section referred to as “the owner”) to maintain it in such a condition that it is not a source of danger to, and does not interfere with, or require any restriction to be placed on, the traffic from time to time using the railway or inland waterway crossed by the bridge.
- (3) Any of the said Boards whose railway or inland waterway is crossed by a bridge to which this section applies (in this section referred to as “the relevant Board”) shall be entitled at all reasonable times to inspect and survey that bridge and for that purpose to place on or against it such apparatus as may be reasonably required; and subject to subsection (5) of this section, the Board may—
- (a) at any time serve on the owner a notice requiring him to carry out, within such reasonable time as may be specified in the notice, any works so specified which are required to maintain the bridge in, or to restore it to, the condition mentioned in subsection (2) of this section; and
  - (b) if all or any of those works are not satisfactorily carried out by the owner in accordance with the notice, themselves carry out all or any of those works and recover the reasonable expenses of so doing from the owner;
- and, if, in the opinion of the Board, it is necessary so to do by reason of the urgency of the matter, the Board may, without giving any such notice, themselves carry out any works which are required as aforesaid and, subject to subsection (5) of this section, recover the reasonable expenses of so doing from the owner.
- (4) The relevant Board shall afford to the owner of a bridge to which this section applies such access to land occupied by them as he may reasonably require for maintaining the bridge in, or restoring it to, the condition mentioned in subsection (2) of this section, except that the Board shall not be obliged to afford access for any works the carrying out of which would, in the opinion of the Board, involve danger to or interference with, or require any restriction to be placed on, traffic using the railway or inland waterway crossed by the bridge, and where the Board refuse access as aforesaid—
- (a) the owner of the bridge shall not by virtue of subsection (2) of this section be under any duty to carry out those works; but
  - (b) the Board may themselves carry out those works and, subject to subsection (5) of this section, recover the reasonable expenses of so doing from the owner.
- (5) The owner of a bridge shall not by virtue of the foregoing provisions of this section be under any duty to carry out or pay for works for making good any defect—
- (a) caused by the withdrawal of support from land in connection with the working or getting of minerals or with brine pumping; or
  - (b) for which the relevant Board are themselves responsible;
- but nothing in this subsection shall affect any agreement between the owner of the bridge and the relevant Board and, subject to any such agreement, the relevant Board

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shall be entitled to carry out any works which are required to make good any such defect as aforesaid.

- (6) The owner of any bridge to which this section applies shall afford to the relevant Board such access to land occupied by him as they may reasonably require for exercising their powers under this section; but the Board shall not claim such access as of right unless they have given the owner not less than seven days previous notice in writing stating the purpose of the proposed entry, except that they shall not be obliged to give such a notice if, in their opinion, it is impracticable to do so by reason of the urgency of the matter, in which case they shall take such steps as are reasonably practicable (before or after they enter the land) for informing the owner of the purpose of the entry.
- (7) Where, in exercising their powers under this section in relation to any bridge, a Board cause damage to the bridge or to any land occupied by the owner of the bridge, they shall pay to the owner such compensation as may be just.
- (8) The duty imposed by subsection (2) of this section on the owner of a bridge shall be in addition to any duty of the owner to maintain the bridge which arises under any other enactment or any order or agreement passed or made before the day on which this section comes into force or the date on which the bridge became a bridge to which this section applies, as the case may be; and, if under any such enactment, order or agreement there are subsisting as between the owner and the relevant Board any rights or liabilities as respects the making of payments in connection with the maintenance of the bridge, those rights and liabilities may be abrogated or modified by agreement between them or, in default of agreement, on the application of either of them, by arbitration.
- (9) Any dispute arising out of this section between the owner of a bridge and a Board shall be referred to arbitration, but this subsection—
  - (a) shall be without prejudice to any provision of this section whereby any matter is to be determined by the opinion of a Board; and
  - (b) shall not preclude the carrying out by a Board of any works pending the determination of any arbitration proceedings.
- (10) The provisions of this section shall have effect in relation to any bridge subject to any agreement made between the owner of the bridge and the relevant Board after the date on which those provisions became applicable to the bridge.
- (11) Where any cable, pipe or other apparatus is incorporated in or attached to a bridge to which this section applies, then—
  - (a) if the apparatus belongs to the owner of the bridge, it shall be treated for the purposes of this section as forming part of the bridge; and
  - (b) if the apparatus belongs to some other person, the provisions of subsections (2) to (10) of this section shall have effect in relation to the apparatus and to that person as they have effect in relation to a bridge to which this section applies and to the owner of such a bridge;

but none of the said Boards shall by virtue of this subsection interfere with the use of any such apparatus for providing any supply or service if the apparatus is so used by its owner under statutory powers and he has not consented to that interference.
- (12) Nothing in this section shall be taken as authorising any person to interfere with traffic lawfully using any bridge <sup>F802</sup> . . .

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### Textual Amendments

- F787** Words in ss. 116-119 substituted (15.7.2003) by [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), art. 1(1), **Sch. 1 para. 4(2)**
- F798** Word in s. 118 heading substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 48(2)** (with arts. 4-6)
- F799** S. 118(1A) inserted (20.3.1996) by S.I. 1996/420, art. 2, **Sch. para. 4**
- F800** S. 118(1B) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 48(3)** (with arts. 4-6)
- F801** S. 118(1C) inserted (30.9.2013) by [The Public Bodies \(Abolition of BRB \(Residuary\) Limited\) Order 2013 \(S.I. 2013/2314\)](#), arts. 1(2), **5(3)**
- F802** Words in s. 118(12) repealed (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22\)](#), s. 168(2), **Sch. 9**; (E.W.) S.I. 1992/2984, art. 2(2), **Sch. 2**.

### Modifications etc. (not altering text)

- C109** Ss. 116-119 modified (15.7.2003) by [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), art. 1(1), **Sch. 1 para. 4(4)**
- C110** Ss. 116-118 applied (with modifications) (3.8.2004) by [The Eden Valley Railway Order 2004 \(S.I. 2004/1817\)](#), arts. 1, **3(2)**
- C111** Ss. 116-118 applied (with modifications) (30.11.2007) by [The East Kent Railway Order 2007 \(S.I. 2007/3234\)](#), arts. 1, **4(2)**
- C113** Ss. 116-118 applied (16.8.2012) by [The Nene Valley Railway \(Fletton Branch\) Order 2012 \(S.I. 2012/1993\)](#), **arts. 1(1), 3(3)** (with art. 4)
- C114** Ss. 116-118 applied (with modifications) (26.6.2014) by [The Swanage Railway Order 2014 \(S.I. 2014/1604\)](#), arts. 1(1), **3(2)** (with art. 5)
- C129** S. 118 amended by [Transport \(London\) Act 1969 \(c. 35\)](#), **Sch. 3 para. 1(1)(2)**
- C130** Ss. 116-118 applied (with modifications) (21.5.1992) by S.I. 1992/1267, **art. 7**.
- C131** Ss. 116-118 applied (with modifications) (22.6.1993) by S.I. 1993/1607, **art. 9** (with arts. 8, 12(2), 13, 14)
- C132** Ss. 116-118 applied (with modifications) (29.6.1993) by S.I. 1993/1651, **art. 3(4)** (with arts. 6, 8, 9, 10(2))
- C133** Ss. 116-119 applied (with modifications) (1.9.1993) by S.I. 1993/2154, **art. 3(4)**  
Ss. 116-119 applied (with modifications) (16.5.2002) by S.I. 2002/1384, **art. 3(4)** (with arts. 10(2), 11)  
Ss. 116-118 applied (with modifications) (26.7.1994) by S.I. 1994/1803, art.  
Ss. 116-118 applied (with modifications) (4.5.1995) by S.I. 1995/1236, **art. 3(5)**  
Ss. 116-118 applied (with modifications) (10.5.1995) by S.I. 1995/1300, **art. 3(4)**  
Ss. 116-118 applied (with modifications) (21.9.1995) by S.I. 1995/2501, **art. 8**  
Ss. 116-118 applied (with modifications) (16.10.1996) by S.I. 1996/2660, **art. 4(7)**  
Ss. 116-118 applied (with modifications) (23.9.1997) by S.I. 1997/2262, **art. 4(3)**  
Ss. 116-118 applied (with modifications) (9.10.1997) by S.I. 1997/2534, **art. 7**  
Ss. 116-118 applied (with modifications) (21.7.1999) by S.I. 1999/2382, **art. 4(2)**  
Ss. 116-118 applied (with modifications) (4.8.2000) by S.I. 2000/2585, **art. 4(2)**  
Ss. 116-118 applied (with modifications) (12.8.2002) by S.I. 2002/1997, **art. 9(1)**
- C134** S. 118 applied (with modifications) (28.9.2015) by [The Ecclesbourne Valley Railway Order 2015 \(S.I. 2015/1652\)](#), arts. 1, **4(1)(c)** (with art. 6(5))
- C135** S. 118 applied (5.11.2020) by [The Wear Valley Railway \(Transfer\) Order 2020 \(S.I. 2020/1137\)](#), arts. 1, **9(1)** (with arts. 6(2), 9(2))

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**118 Duty of highway authorities, etc., as respects bridges over [<sup>F798</sup>certain] railways or inland waterways. S**

- (1) This section applies to any bridge, including a bridge constructed after the day on which this section comes into force, which—
- (a) carries a [<sup>F1013</sup>road] over one or more of the following, that is to say, a railway of the Railways Board, a railway of [<sup>F1014</sup>London Regional Transport] or an inland waterway of the Waterways Board; and
  - (b) belongs to the Minister, the Secretary of State, a local [<sup>F1015</sup>roads] authority or some other person not being the Board or Boards whose railway or waterway is crossed by the bridge.
- [<sup>F1016</sup>(1A) This section also applies to any bridge (whenever constructed) which—
- (a) carries a highway over a railway comprised in a transferred network or a new network of a network owner, but
  - (b) does not belong to the network owner,
- and in relation to any such bridge references in this section to any of the said Boards or a Board are to be read as references to the network owner.]
- [<sup>F800</sup>(1B) This section also applies to any bridge (whenever constructed) which —
- (a) carries a highway over an inland waterway of Canal & River Trust, but
  - (b) does not belong to Canal & River Trust,
- and in relation to any such bridge references in this section to any of the said Boards or a Board are to be read as references to Canal & River Trust.]
- [<sup>F801</sup>(1C) This section also applies to any bridge (whenever constructed) which—
- (a) carries a highway over a railway of the Secretary of State, but
  - (b) does not belong to the Secretary of State,
- and in relation to any such bridge references in this section to any of the said Boards or a Board are to be read as references to the Secretary of State.]
- (2) Subject to subsections (4) and (5) of this section, it shall be the duty of the person to whom a bridge to which this section applies belongs (in this section referred to as “the owner”) to maintain it in such a condition that it is not a source of danger to, and does not interfere with, or require any restriction to be placed on, the traffic from time to time using the railway or inland waterway crossed by the bridge.
- (3) Any of the said Boards whose railway or inland waterway is crossed by a bridge to which this section applies (in this section referred to as “the relevant Board”) shall be entitled at all reasonable times to inspect and survey that bridge and for that purpose to place on or against it such apparatus as may be reasonably required; and subject to subsection (5) of this section, the Board may—
- (a) at any time serve on the owner a notice requiring him to carry out, within such reasonable time as may be specified in the notice, any works so specified which are required to maintain the bridge in, or to restore it to, the condition mentioned in subsection (2) of this section; and
  - (b) if all or any of those works are not satisfactorily carried out by the owner in accordance with the notice, themselves carry out all or any of those works and recover the reasonable expenses of so doing from the owner;
- and, if, in the opinion of the Board, it is necessary so to do by reason of the urgency of the matter, the Board may, without giving any such notice, themselves carry out any



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works which are required as aforesaid and, subject to subsection (5) of this section, recover the reasonable expenses of so doing from the owner.

- (4) The relevant Board shall afford to the owner of a bridge to which this section applies such access to land occupied by them as he may reasonably require for maintaining the bridge in, or restoring it to, the condition mentioned in subsection (2) of this section, except that the Board shall not be obliged to afford access for any works the carrying out of which would, in the opinion of the Board, involve danger to or interference with, or require any restriction to be placed on, traffic using the railway or inland waterway crossed by the bridge, and where the Board refuse access as aforesaid—
  - (a) the owner of the bridge shall not by virtue of subsection (2) of this section be under any duty to carry out those works; but
  - (b) the Board may themselves carry out those works and, subject to subsection (5) of this section, recover the reasonable expenses of so doing from the owner.
- (5) The owner of a bridge shall not by virtue of the foregoing provisions of this section be under any duty to carry out or pay for works for making good any defect—
  - (a) caused by the withdrawal of support from land in connection with the working or getting of minerals or with brine pumping; or
  - (b) for which the relevant Board are themselves responsible;but nothing in this subsection shall affect any agreement between the owner of the bridge and the relevant Board and, subject to any such agreement, the relevant Board shall be entitled to carry out any works which are required to make good any such defect as aforesaid.
- (6) The owner of any bridge to which this section applies shall afford to the relevant Board such access to land occupied by him as they may reasonably require for exercising their powers under this section; but the Board shall not claim such access as of right unless they have given the owner not less than seven days previous notice in writing stating the purpose of the proposed entry, except that they shall not be obliged to give such a notice if, in their opinion, it is impracticable to do so by reason of the urgency of the matter, in which case they shall take such steps as are reasonably practicable (before or after they enter the land) for informing the owner of the purpose of the entry.
- (7) Where, in exercising their powers under this section in relation to any bridge, a Board cause damage to the bridge or to any land occupied by the owner of the bridge, they shall pay to the owner such compensation as may be just.
- (8) The duty imposed by subsection (2) of this section on the owner of a bridge shall be in addition to any duty of the owner to maintain the bridge which arises under any other enactment or any order or agreement passed or made before the day on which this section comes into force or the date on which the bridge became a bridge to which this section applies, as the case may be; and, if under any such enactment, order or agreement there are subsisting as between the owner and the relevant Board any rights or liabilities as respects the making of payments in connection with the maintenance of the bridge, those rights and liabilities may be abrogated or modified by agreement between them or, in default of agreement, on the application of either of them, by arbitration.
- (9) Any dispute arising out of this section between the owner of a bridge and a Board shall be referred to arbitration, but this subsection—
  - (a) shall be without prejudice to any provision of this section whereby any matter is to be determined by the opinion of a Board; and

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- (b) shall not preclude the carrying out by a Board of any works pending the determination of any arbitration proceedings.
- (10) The provisions of this section shall have effect in relation to any bridge subject to any agreement made between the owner of the bridge and the relevant Board after the date on which those provisions became applicable to the bridge.
- (11) Where any cable, pipe or other apparatus is incorporated in or attached to a bridge to which this section applies, then—
- (a) if the apparatus belongs to the owner of the bridge, it shall be treated for the purposes of this section as forming part of the bridge; and
  - (b) if the apparatus belongs to some other person, the provisions of subsections (2) to (10) of this section shall have effect in relation to the apparatus and to that person as they have effect in relation to a bridge to which this section applies and to the owner of such a bridge;
- but none of the said Boards shall by virtue of this subsection interfere with the use of any such apparatus for providing any supply or service if the apparatus is so used by its owner under statutory powers and he has not consented to that interference.
- (12) Nothing in this section shall be taken as authorising any person to interfere with traffic lawfully using any bridge <sup>F1017</sup> . . .

#### Textual Amendments

- F798** Word in s. 118 heading substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 48(2)** (with arts. 4-6)
- F800** S. 118(1B) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 48(3)** (with arts. 4-6)
- F801** S. 118(1C) inserted (30.9.2013) by [The Public Bodies \(Abolition of BRB \(Residuary\) Limited\) Order 2013 \(S.I. 2013/2314\)](#), arts. 1(2), **5(3)**
- F1013** Word in s. 118(1)(a) substituted (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), **Sch. 9 para. 66(4)(a)**
- F1014** Words substituted by virtue of [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), **Sch. 4 Pt. I para. 4(1)**
- F1015** Word in s. 118(2)(b) substituted (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), **Sch. 9 para. 66(4)(b)**
- F1016** S. 118(1A) inserted (20.3.1996) by [S.I. 1996/420](#), art. 2, **Sch. para. 4**
- F1017** Words in s. 118(12) repealed (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22\)](#), s. 168(2), **Sch. 9**; (S.) [S.I. 1992/2990](#), art. 2(2), **Sch. 2**.

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

- C109** Ss. 116-119 modified (15.7.2003) by [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), art. 1(1), **Sch. 1 para. 4(4)**
- C110** Ss. 116-118 applied (with modifications) (3.8.2004) by [The Eden Valley Railway Order 2004 \(S.I. 2004/1817\)](#), arts. 1, **3(2)**
- C111** Ss. 116-118 applied (with modifications) (30.11.2007) by [The East Kent Railway Order 2007 \(S.I. 2007/3234\)](#), arts. 1, **4(2)**
- C113** Ss. 116-118 applied (16.8.2012) by [The Nene Valley Railway \(Fletton Branch\) Order 2012 \(S.I. 2012/1993\)](#), arts. **1(1)**, **3(3)** (with art. 4)
- C114** Ss. 116-118 applied (with modifications) (26.6.2014) by [The Swanage Railway Order 2014 \(S.I. 2014/1604\)](#), arts. **1(1)**, **3(2)** (with art. 5)
- C134** S. 118 applied (with modifications) (28.9.2015) by [The Ecclesbourne Valley Railway Order 2015 \(S.I. 2015/1652\)](#), arts. 1, **4(1)(c)** (with art. 6(5))

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- C135** S. 118 applied (5.11.2020) by [The Wear Valley Railway \(Transfer\) Order 2020 \(S.I. 2020/1137\)](#), arts. 1, **9(1)** (with arts. 6(2), 9(2))
- C181** S. 118 amended by [Transport \(London\) Act 1969 \(c. 35\)](#), **Sch. 3 para. 1(1)(2)**
- C182** Ss. 116-118 applied (with modifications) (21.5.1992) by [S.I. 1992/1267](#), **art. 7**.
- C183** Ss. 116-118 applied (with modifications) (22.6.1993) by [S.I. 1993/1607](#), **art. 9** (with arts. 8, 12(2), 13, 14)
- C184** Ss. 116-118 applied (with modifications) (29.6.1993) by [S.I. 1993/1651](#), **art. 3(4)** (with arts. 6, 8, 9, 10(2))
- C185** Ss. 116-119 applied (with modifications) (1.9.1993) by [S.I. 1993/2154](#), **art. 3(4)**  
Ss. 116-119 applied (with modifications) (16.5.2002) by [S.I. 2002/1384](#), **art. 3(4)** (with arts. 10(2), 11)  
Ss. 116-118 applied (with modifications) (26.7.1994) by [S.I. 1994/1803](#), **art. 6**  
Ss. 116-118 applied (with modifications) (4.5.1995) by [S.I. 1995/1236](#), **art. 3(5)**  
Ss. 116-118 applied (with modifications) (10.5.1995) by [S.I. 1995/1300](#), **art. 3(4)**  
Ss. 116-118 applied (with modifications) (21.9.1995) by [S.I. 1995/2501](#), **art. 8**  
Ss. 116-118 applied (with modifications) (16.10.1996) by [S.I. 1996/2660](#), **art. 4(7)**  
Ss. 116-118 applied (with modifications) (23.9.1997) by [S.I. 1997/2262](#), **art. 4(3)**  
Ss. 116-118 applied (with modifications) (9.10.1997) by [S.I. 1997/2534](#), **art. 7**  
Ss. 116-118 applied (with modifications) (21.7.1999) by [S.I. 1999/2382](#), **art. 4(2)**  
Ss. 116-118 applied (with modifications) (4.8.2000) by [S.I. 2000/2585](#), **art. 4(2)**  
Ss. 116-118 applied (with modifications) (12.8.2002) by [S.I. 2002/1997](#), **art. 9(1)**

## **119** **Ending of liability** <sup>F803</sup> **... to make payments on being relieved of responsibility for bridges carrying trunk or special roads.**

- (1) Where after the appointed day any [<sup>F804</sup>network bridge or] bridge belonging to the Railways Board, [<sup>F787</sup>Transport for London][<sup>F805</sup>, the Waterways Board or Canal & River Trust] is transferred to the Minister or the Secretary of State under [<sup>F806</sup>section [<sup>F807</sup>266 of the <sup>M40</sup>Highways Act 1980] or section 7 of the <sup>M41</sup>Trunk Roads Act 1946 [<sup>F807</sup>266 of the <sup>M42</sup>Highways Act 1980 or section 80 of the Roads (Scotland) Act 1984]] (bridges carrying highways [<sup>F808</sup>, or as the case may be roads] which become trunk roads) or to a special road authority by an order made by virtue of [<sup>F806</sup>section [<sup>F809</sup>267 of the said Act of 1980] or section 8 of the <sup>M43</sup>Special Roads Act 1949][<sup>F809</sup>267 of the said Act of 1980 or section 81 of the said Act of 1984] (bridges carrying highways [<sup>F808</sup>, or as the case may be roads,] which are included in special road schemes), the Board [<sup>F810</sup>or, as the case may be, Canal & River Trust]—
- (a) shall not be liable under the provisions of [<sup>F806</sup>section [<sup>F811</sup>55(2) of the said Act of 1980], section 7(3) of the said Act of 1946 or section 8(2) of the said Act of 1949], [<sup>F811</sup>55(2) of the said Act of 1980 or subsection (4) of the said section 80 (or that subsection as applied by subsection (2) of the said section 81)], to pay any sum in respect of the value to the Board [<sup>F810</sup>or, as the case may be, Canal & River Trust] of the extinguishment of their liability for the maintenance, [<sup>F812</sup>repair] or improvement of the bridge or the highway [<sup>F813</sup>, or as the case may be road,] carried thereby; but
- (b) shall not be entitled to receive under [<sup>F806</sup>section [<sup>F814</sup>266(5) or 267(2) of the said Act of 1980] or the said section 7(3) or 8(2)][<sup>F814</sup>266(5) or 267(2) of the said Act of 1980 or subsection (4) of the said section 80 (or that subsection applied as aforesaid)] any sum in respect of the value to them of the bridge as an asset productive of revenue except to the extent (if any) by which that sum exceeds the sum which, apart from paragraph (a) of this subsection, the Board [<sup>F810</sup>or, as the case may be, Canal & River Trust] would be liable to pay under the provisions mentioned in that paragraph.

*Status: Point in time view as at 07/05/2024.*

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- (2) None of the Boards mentioned in subsection (1) of this section [<sup>F815</sup>or Canal & River Trust] shall be liable to pay any instalment or make any annual payment under the provisions mentioned in paragraph (a) of that subsection if the obligation to pay that instalment or to make that payment arises from the transfer of any bridge before the appointed day and that instalment or payment falls due after that day.
- [<sup>F816</sup>(3) In subsection (1) above “network bridge” means a bridge (whenever constructed) which—
- (a) carries a highway over a railway comprised in a transferred network or a new network of a network owner, and
  - (b) belongs to the network owner.
- <sup>F816</sup>(4) In relation to a network bridge, references in this section to the Boards or a Board are to be read as references to the network owner.]

#### Textual Amendments

- F787** Words in ss. 116-119 substituted (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 4(2)**
- F803** Words in s. 119 heading omitted (2.7.2012) by virtue of The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 2 para. 49(2)** (with arts. 4-6)
- F804** Words in s. 119(1) inserted (20.3.1996) by S.I. 1996/420, **art. 5**
- F805** Words in s. 119(1) substituted (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 2 para. 49(3)(a)** (with arts. 4-6)
- F806** Words substituted by Highways Act 1980 (c. 66), **Sch. 24 para. 18**
- F807** Words “266” to “1984” substituted (S.) (1.1.1985) for words “266” to “1946” by virtue of Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(5)(a)**
- F808** Words inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(5)(b)**
- F809** Words “267” to “1984” substituted (S.) (1.1.1985) for words “267” to “1949” by virtue of Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(5)(c)**
- F810** Words in s. 119(1) inserted (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 2 para. 49(3)(b)** (with arts. 4-6)
- F811** Words “55(2)” to “81” substituted (S.) (1.1.1985) for words “55(2)” to “1949” by virtue of Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(5)(d)**
- F812** Words repealed (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), 157(2), **Sch. 11**
- F813** Words inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(5)(d)**
- F814** Words “266(5)” to “aforesaid)” substituted (S.) (1.1.1985) for words “266(5)” to “8(2)” by virtue of Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(5)(e)**
- F815** Words in s. 119(2) inserted (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 2 para. 49(4)** (with arts. 4-6)
- F816** S. 119(3)(4) inserted (20.3.1996) by S.I. 1996/420, **art. 5**

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

- C109** Ss. 116-119 modified (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 4(4)**
- C136** S. 119 amended by Transport (London) Act 1969 (c. 35), **Sch. 3 para. 1(1)(2)**
- C137** Ss. 116-119 applied (with modifications) (1.9.1993) by S.I. 1993/2154, **art. 3(4)**  
Ss. 116-119 applied (with modifications) (16.5.2002) by S.I. 2002/1384, **art. 3(4)** (with arts. 10(2), 11)

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#### Marginal Citations

- M40 1980 c. 66.
- M41 1946 c. 30
- M42 1980 c. 66.
- M43 1949 c. 32.

120 ..... F817

#### Textual Amendments

- F817 S. 120 repealed by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 81:1, 2:103:1, 2\)](#), [Sch. 34 Pt. VII](#)

#### 121 Application of foregoing sections to <sup>F818</sup>other undertakers].

- (1) In the foregoing sections of this Part of this Act any reference to <sup>F819</sup>Canal & River Trust,] the Railways Board, <sup>F820</sup>Transport for London] or the Waterways Board includes a reference to any subsidiary of <sup>F821</sup>that body] ; <sup>F822</sup> ...
- (2) The Minister may by order apply—
  - (a) all or any of the provisions of section 116 or 117 of this Act to bridges over railways or inland waterways of persons other than the <sup>F823</sup>bodies] mentioned in those sections or their subsidiaries, or over installations or land used in connection with a railway or inland waterway by persons other than those <sup>F823</sup>bodies] or subsidiaries, <sup>F822</sup> ... ;
  - (b) all or any of the provisions of section 118 of this Act to bridges over railways or inland waterways of persons other than the <sup>F823</sup>bodies] mentioned in that section or their subsidiaries.
- (3) An order under subsection (2) of this section may make such modifications in the provisions applied by it, and in any other enactment or instrument relating to the bridge, railway, inland waterway, installation or land to which it relates, as appear to the Minister to be appropriate.
- <sup>F824</sup>(4) An order under the <sup>M44</sup>Light Railways Act 1896 may make provision for any matter for which provision can be made by an order made under subsection (2) of this section in relation to a railway or to any installation or land used in connection with a railway.]
- (5) Before making an order under subsection (2) of this section <sup>F825</sup>or by virtue of subsection (4) thereof], the Minister shall consult with the highway authority concerned (unless he is himself that authority); and, before making an order under the said subsection (2), the Minister shall consult with the owner of the railway, inland waterway, installation or land concerned.
- <sup>F826</sup>(6) Where an order made under subsection (2) <sup>F827</sup>or by virtue of subsection (4)]of this section applies all or any of the provisions of section 117 of this Act to any bridge to which that section has not at any previous time applied, paragraphs 15, 16, 18, 19 and 20 of Schedule 11 to <sup>F828</sup>the <sup>M45</sup>Highways Act 1980] (which relate to the apportionment of expenses) shall apply in relation to that bridge as if—
  - (a) the provisions of the said section 117 so applied were an order to which the said paragraph 15 applies; and

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- (b) the bridge were such a bridge as is mentioned in the said paragraph 15; and
- (c) the highway authorities referred to in those paragraphs of the said Schedule 11 were the highway authority or highway authorities for the highway carried by the bridge;

but if the order made as aforesaid also applies to the bridge all or any of the provisions of section 116 of this Act and the highway carried by or giving access to the bridge has under the provisions of the said section 116 so applied become a highway maintainable at the public expense instead of by the owners of the bridge, then, for the purposes of [F828 sub-paragraph (2)(c) of] the said paragraph 15, the share of the expense there referred to of those owners shall be increased by an amount equivalent to the amount of any saving to those owners, in consequence of those provisions of the said section 116, of expense in maintaining that highway.

- (7) In the application of the last foregoing subsection to Scotland, references therein to paragraphs 15, 16, 18, 19 and 20 of Schedule 11 to [F828 the M46 Highways Act 1980] and to [F828 sub-paragraph (2)(c) of] the said paragraph 15 shall be construed as references to the following provisions respectively of the M47 Bridges Act 1929, namely, sections 6(1), 6(2), 6(3), 7(2) and 15(b) and paragraph (c) of the proviso to the said section 6(1).]
- (8) In subsections (2) and (3) of this section, and in subsection (5) thereof so far as it relates to subsection (2), references to the Minister shall, as respects bridges in Scotland or Wales, be construed as references to the Secretary of State. [F829; and in the application of the said subsection (5) to Scotland the reference to a highway authority shall be construed as a reference to a roads authority.]

#### Textual Amendments

- F818** Words in s. 121 heading substituted (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 2 para. 50(2)** (with arts. 4-6)
- F819** Words in s. 121(1) inserted (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 2 para. 50(3)(a)** (with arts. 4-6)
- F820** Words in s. 121(1) substituted (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 4(3)**
- F821** Words in s. 121(1) substituted (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 2 para. 50(3)(b)** (with arts. 4-6)
- F822** Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**
- F823** Word in s. 121(2) substituted (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 2 para. 50(4)** (with arts. 4-6)
- F824** S. 121(4) repealed (E.W.) (1.1.1993) by Transport and Works Act 1992 (c. 42), s. 68(1), **Sch. 4 Pt. I; S.I. 1992/2784, art. 2(b), Sch. 2 Pt. II** (with art. 3(2)(b))
- F825** Words in s. 121(5) repealed (E.W.) (1.1.1993) by Transport and Works Act 1992(c. 42), s. 68(1), Sch. 4 Pt. I; **S.I. 1992/2784, art. 2(b), Sch. 2 Pt. II** (with art. 3(2)(b))
- F826** S. 121(6)(7) repealed (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), ss. 156(3), 157(2), **Sch. 11**
- F827** Words in s. 121(6) repealed (E.W.) (1.1.1993) by Transport and Works Act 1992 (c. 42), s. 68(1), **Sch. 4 Pt. I; S.I. 1992/2784, art. 2(b), Sch. 2 Pt. II** (with art. 3(2)(b))
- F828** Words substituted by Highways Act 1980 (c. 66), **Sch. 24 para. 18**
- F829** Words added (S.) (1.1.1985) by Roads (Scotland) (c. 54, SIF 108), Sch. 9 para. 66(6)

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

- C138** S. 121 modified by London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 4 Pt. I para. 4(3)**

*Status: Point in time view as at 07/05/2024.*

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**C139** S. 121 modified (15.7.2003) by [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), art. 1(1), [Sch. 1 para. 4\(4\)](#)

#### Marginal Citations

- M44** 1896 c. 48.  
**M45** 1980 c. 66.  
**M46** 1980 c. 66.  
**M47** 1929 c. 33.

## 122 Interpretations of sections 116 to 121. **E+W**

- (1) Where a railway or an inland waterway passes under a highway by means of a tunnel, or runs in a cutting over which a highway is superimposed, the foregoing provisions of this Part of this Act (except sections 119 and 120) shall, so far as applicable and subject to any necessary modifications, have effect in relation to the highway as if it were carried by a bridge and to the structure of the tunnel or, as the case may be, the structure by means of which the highway is superimposed as aforesaid, as if that structure were a bridge.
- (2) In sections 116, 117 and 120 of this Act, and in section 121 thereof so far as it relates to the said sections 116 and 117, references to a railway include references to a railway which has ceased to carry any traffic and to the site of a railway from which the track has been removed.
- (3) In sections 117 and 118 of this Act, and in section 121 thereof so far as it relates to those sections, references to a bridge include references to any abutments or other parts of a bridge and, if the person to whom the bridge belongs is responsible for the maintenance thereof—
  - (a) to the surface of the road carried by, or giving access to, the bridge;
  - (b) to any embankment, retaining wall or other work or substance supporting or protecting the surface of that road.
- (4) In the foregoing provisions of this Part of this Act, and in this section, references to a highway do not include references to a waterway.
- <sup>F830</sup>(5) In sections 116 to 119 and 121 of this Act, and in this section,—
  - (a) “network owner” means—
    - (i) a person in whom is vested a network by virtue of a transfer scheme, or
    - (ii) a successor in title to any such person;
  - (b) “new network” means a network constructed or acquired, other than pursuant to a transfer scheme, after 31 March 1994 where any railway line comprised in that network is connected to a railway line comprised in a transferred network;
  - (c) “transferred network” means a network transferred at any time by transfer scheme;
  - (d) “network” and “transfer scheme” shall be construed in accordance with the Railways Act 1993; and
  - (e) references to a highway are to be read, in relation to Scotland, as references to a road.]

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#### Extent Information

**E15** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

**F830** S. 122(5) inserted (20.3.1996) by S.I. 1996/420, art. 2, Sch. para. 6

## 122 Interpretations of sections 116 to 121. **S**

- (1) Where a railway or an inland waterway passes under a [<sup>F1018</sup>road] by means of a tunnel, or runs in a cutting over which a [<sup>F1018</sup>road] is superimposed, the foregoing provisions of this Part of this Act (except sections 119 and 120) shall, so far as applicable and subject to any necessary modifications, have effect in relation to the [<sup>F1018</sup>road] as if it were carried by a bridge and to the structure of the tunnel or, as the case may be, the structure by means of which the [<sup>F1018</sup>road] is superimposed as aforesaid, as if that structure were a bridge.
- (2) In sections 116, 117 and 120 of this Act, and in section 121 thereof so far as it relates to the said sections 116 and 117, references to a railway include references to a railway which has ceased to carry any traffic and to the site of a railway from which the track has been removed.
- (3) In sections 117 and 118 of this Act, and in section 121 thereof so far as it relates to those sections, references to a bridge include references to any abutments or other parts of a bridge and, if the person to whom the bridge belongs is responsible for the maintenance thereof—
  - (a) to the surface of the [<sup>F1018</sup>road] carried by, or giving access to, the bridge;
  - (b) to any embankment, retaining wall or other work or substance supporting or protecting the surface of that [<sup>F1018</sup>road].

<sup>F1019</sup>(4) .....

<sup>F1020</sup>(5) In sections 116 to 119 and 121 of this Act, and in this section,—

- (a) “network owner” means—
  - (i) a person in whom is vested a network by virtue of a transfer scheme, or
  - (ii) a successor in title to any such person;
- (b) “new network” means a network constructed or acquired, other than pursuant to a transfer scheme, after 31 March 1994 where any railway line comprised in that network is connected to a railway line comprised in a transferred network;
- (c) “transferred network” means a network transferred at any time by transfer scheme;
- (d) “network” and “transfer scheme” shall be construed in accordance with the Railways Act 1993; and
- (e) references to a highway are to be read, in relation to Scotland, as references to a road.]



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#### Extent Information

**E36** This version of this provision extends to Scotland only; a separate version has been created for England and Wales.

#### Textual Amendments

**F1018** Word “road” substituted (S.) (1.1.1985) for word “highway” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [Sch. 9 para. 66\(7\)\(a\)](#)

**F1019** S. 122(4) repealed (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), ss. 156(3), 157(2), [Sch. 11](#)

**F1020** S. 122(5) inserted (20.3.1996) by [S.I. 1996/420, art. 2, Sch. para. 6](#)

### Level crossings

#### 123 Power of highway and other authorities to contribute to cost of barriers, etc., at level crossings. **E+W**

- (1) Contributions to the expenses incurred by the Railways Board [<sup>F831</sup> or a network owner] in providing lifting or other barriers, lights, signs, or other devices or appliances for the protection or convenience of the public at or near any level crossing where a road is crossed by a railway of the Board [<sup>F831</sup>, or, as the case may be, by a railway comprised in a transferred network or a new network of that network owner,] may be made by—
  - (a) the highway authority, if any, for that road; [<sup>F832</sup> and
  - (b) any local authority, not being the highway authority, in whose area the level crossing is situated.]
- (2) In this section “local authority” means, as respects England and Wales, the council of a county, . . . <sup>F833</sup> London borough or county [<sup>F834</sup> district]. . . <sup>F835</sup> and the Common Council of the City of London [<sup>F836</sup> and “network owner”, “new network” and “transferred network” shall be given the meanings in section 122(5) above,] and, as respects Scotland, a county council and a town council.

#### Extent Information

**E16** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

**F831** Words in s. 123(1) inserted (20.3.1996) by [S.I. 1996/420, art. 2 Sch. para. 7\(i\)](#)

**F832** 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\(3\)\(b\)](#)

**F833** Words repealed by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 30](#)

**F834** Word substituted by virtue of [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [s. 179\(3\)](#)

**F835** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)

**F836** Words in s. 123(2) inserted (20.3.1996) by [S.I. 1996/420, art. 2 Sch. para. 7\(ii\)](#)

Status: Point in time view as at 07/05/2024.

Changes to legislation: Transport Act 1968 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**123 Power of highway and other authorities to contribute to cost of barriers, etc., at level crossings. S**

- (1) Contributions to the expenses incurred by the Railways Board [<sup>F1021</sup>or a network owner] in providing lifting or other barriers, lights, signs, or other devices or appliances for the protection or convenience of the public at or near any level crossing where a road is crossed by a railway of the Board [<sup>F1021</sup>, or, as the case may be, by a railway comprised in a transferred network or a new network of that network owner,] may be made by—
  - (a) the [<sup>F1022</sup>highway] authority, if any, for that road; [<sup>F1023</sup>and
  - (b) any local authority, not being the highway authority, in whose area the level crossing is situated.]
- (2) In this section “local authority” means, as respects England and Wales, the council of a county, . . . <sup>F1024</sup> London borough or county [<sup>F1025</sup>district]. . . <sup>F1026</sup> and the Common Council of the City of London [<sup>F1027</sup>and “network owner”, “new network” and “transferred network” shall be given the meanings in section 122(5) above,] and, as respects Scotland, a [<sup>F1028</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994].

**Textual Amendments**

**F1021** Words in s. 123(1) inserted (20.3.1996) by S.I. 1996/420, **art. 2 Sch. para. 7(i)**

**F1022** Word “roads” substituted (S.) (1.1.1985) for word “highway” by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(8)**

**F1023** 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)**

**F1024** Words repealed by Local Government Act 1972 (c. 70, SIF 81:1), **Sch. 30**

**F1025** Word substituted by virtue of Local Government Act 1972 (c. 70, SIF 81:1), **s. 179(3)**

**F1026** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**

**F1027** Words in s. 123(2) inserted (20.3.1996) by S.I. 1996/420, **art. 2 Sch. para. 7(ii)**

**F1028** Words in s. 123(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(10)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F837F838 **124** .....

**Textual Amendments**

**F837** S. 124 repealed (E.W.) (8.7.1996) by Transport and Works Act 1992 (c. 42), ss. 68(1), 70(1), **Sch. 4 Pt. I**; S.I. 1996/1609, arts. 2, 3, **Sch.**

**F838** S. 124 repealed (S.) (1.4.1997) by S.I. 1997/487, **reg. 2(1)(b)** (with reg. 2(2))

*Inspectors of railways*

F839 **125** .....

*Status: Point in time view as at 07/05/2024.*

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**Textual Amendments**

**F839** S. 125 repealed (10.5.1997) by [S.I. 1997/553](#), reg. 12(1), [Sch. 1](#)

**PART IX**

REGULATION OF ROAD TRAFFIC

**126—** ..... **F840**  
**132.**

**Textual Amendments**

**F840** Ss. 126–132 repealed by [Road Traffic Regulation Act 1984](#) (c. 27, SIF 107:1), s. 144, [Sch. 14](#)

**133** ..... **F841**

**Textual Amendments**

**F841** S. 133 repealed by [Statute Law \(Repeals\) Act 1974](#) (c. 22), [Sch. Pt. VI](#)

**PART X**

MISCELLANEOUS AND GENERAL

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

**C140** Pt. X modified (E.W.S.) (16.8.2006) by [The Dover Harbour Revision Order 2006](#) (S.I. 2006/2167), arts. 1(1), [27](#)

**134 Duty to act in certain cases as body engaged in commercial enterprise.**

- (1) This section applies to the following authorities, namely, the Boards, the new authorities, and the Executive for any [<sup>F842</sup>designated area within the meaning of section 9(1)] [<sup>F842</sup>area which is [<sup>F843</sup>an integrated transport area or ] a passenger transport area for the purposes of Part II] of this Act.
- (2) Every authority to whom this section applies who engage, either directly or through a subsidiary, in any activities authorised by any of the provisions specified in subsection (3) of this section shall in carrying on those activities act as if they were a company engaged in a commercial enterprise or, as the case may be, shall exercise their control over that subsidiary so as to ensure that the subsidiary in carrying on those activities acts as a company so engaged.
- (3) The provisions referred to in subsection (2) of this section are—

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- (a) the following provisions of the Act of 1962, namely, subsections (2) to (4) of section 11 (which relate to certain development or acquisition of land);
- (b) the following provisions of this Act, namely, sections . . . <sup>F844</sup>, 10(1)(viii), (xi), (xx)(b) and (xxii), 25(e) and (f), 26(1)(e)(ii), (f) and (k), 48(2), 49(1) to (4), 50(1) (so far as it relates to the provision of facilities at additional premises), and 50(2) to (5).

#### Textual Amendments

**F842** Words commencing “area which is” substituted (E.W.S.) for words commencing “designated” by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 17**

**F843** Words in s. 134(1) inserted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 13**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1

**F844** Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

### 135 Compensation for loss of employment etc. E+W+S

- (1) The Minister shall by regulations require the payment by such person as may be determined by or under the regulations, in such cases and to such extent as may be so determined, of compensation to or in respect of any person who is on the date of the happening of any of the following events, namely—
  - (a) a transfer of any property, rights or liabilities under section 4, 5, <sup>F845</sup> . . . 28, 29, 53 or 144 of this Act; or
  - (b) any change in the manner in which the carrying on of the activities of the Railways Board or the Freight Corporation is organised made—
    - (i) in pursuance of a direction under section 6(1) or 45(5) of this Act; or
    - (ii) with the consent of the Minister in order to give effect to conclusions reported under the said section 45; or
  - (c) the making of any adaptations such as are mentioned in paragraph 5(4) of Schedule 16 to this Act; or
  - (d) the revocation under paragraph 10(1) of Schedule 6 to this Act of a consent granted under that Schedule,

or who has before that date been, in any employment so determined and who suffers any loss of employment, or loss or diminution of emoluments or pension rights, or worsening of his position, which is properly attributable to the happening of that event.
- (2) Any such regulations may apply in relation to any such person whether or not he continues in the employment determined as aforesaid until the date of the happening of the relevant event aforesaid, and whether or not he is a party to an agreement for the rendering of personal services which is affected by the happening of that event.
- (3) Different regulations may be made under this section in relation to different classes of persons, and any such regulations may be so framed as to have effect from a date prior to the making thereof, so, however, that so much of any such regulations as provides that any provision thereof is to have effect as from a date earlier than the making thereof shall not place any person other than the person required to pay the compensation in a worse position than he would have been in if the regulations had been made to have effect only as from the making thereof.
- (4) Regulations under this section—

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- (a) may prescribe the procedure to be followed in making claims for compensation, and the manner in which and the person by whom the question whether any or what compensation is payable is to be determined; and
  - (b) may in particular contain provisions enabling appeals from any determination as to whether any or what compensation is payable to be brought, in such cases and subject to such conditions as may be prescribed by the regulations, before [<sup>F846</sup>an [<sup>F847</sup>employment tribunal]].
- (5) No regulations shall be made under this section unless a draft thereof has been approved by a resolution of each House of Parliament.
- (6) Where any of the following authorities, namely the Boards, the new authorities and the Holding Company, are required by any such regulations to pay compensation thereunder, any other of those authorities may arrange to make to the compensating authority payments by way of contributions towards their liability under the regulations; and if the compensating authority satisfy the Minister that any of the other authorities have not made a proper contribution towards that liability, whether by payment of money or by finding employment for persons to or in respect of whom the compensation has become payable, the Minister may require that other authority to make such payment to the compensating authority as appears to the Minister to be just.
- (7) In relation to regulations under this section in connection with a transfer such as is mentioned in paragraph (a) of subsection (1) thereof to or from the Scottish Group or a subsidiary of theirs, references in the said subsection (1) to the Minister shall be construed as references to the Minister and the Secretary of State acting jointly; and for the purposes of any payment by the Scottish Group under subsection (6) of this section, references to the Minister in the said subsection (6) shall be construed as references to the Secretary of State.

#### Extent Information

**E17** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

#### Textual Amendments

**F845** Words in s. 135(1)(a) repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), 152(3), **Sch. 14**; S.I. 1994/571, **art. 5**

**F846** Words substituted for words “a tribunal established under section 12 of the Industrial Training Act 1964” by **Employment Protection (Consolidation) Act 1978** (c. 44), **Sch. 16 para. 6** and shall continue to have effect by 1996 c. 17, s. 43, ss. 43, 46, **Sch. 1 para. 1** (with s. 38)

Amendment continued (22.8.1996) by 1996 c. 17, ss. 43, 46, **Sch. 1 para. 1** (with s. 38)

**F847** Words in s. 135(4) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)**, (with s. 16(2)); S.I. 1998/1658, **art. 2, Sch. 1**

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

**C141** S. 135(1) extended by **Transport Act 1978** (c. 55), **s. 15(3)**

### 135 Compensation for loss of employment etc. **N.I.**

- (1) The Minister shall by regulations require the payment by such person as may be determined by or under the regulations, in such cases and to such extent as may be so

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determined, of compensation to or in respect of any person who is on the date of the happening of any of the following events, namely—

- (a) a transfer of any property, rights or liabilities under section 4, 5, <sup>F1029</sup> . . . 28, 29, 53 or 144 of this Act; or
- (b) any change in the manner in which the carrying on of the activities of the Railways Board or the Freight Corporation is organised made—
  - (i) in pursuance of a direction under section 6(1) or 45(5) of this Act; or
  - (ii) with the consent of the Minister in order to give effect to conclusions reported under the said section 45; or
- (c) the making of any adaptations such as are mentioned in paragraph 5(4) of Schedule 16 to this Act; or
- (d) the revocation under paragraph 10(1) of Schedule 6 to this Act of a consent granted under that Schedule,

or who has before that date been, in any employment so determined and who suffers any loss of employment, or loss or diminution of emoluments or pension rights, or worsening of his position, which is properly attributable to the happening of that event.

- (2) Any such regulations may apply in relation to any such person whether or not he continues in the employment determined as aforesaid until the date of the happening of the relevant event aforesaid, and whether or not he is a party to an agreement for the rendering of personal services which is affected by the happening of that event.
- (3) Different regulations may be made under this section in relation to different classes of persons, and any such regulations may be so framed as to have effect from a date prior to the making thereof, so, however, that so much of any such regulations as provides that any provision thereof is to have effect as from a date earlier than the making thereof shall not place any person other than the person required to pay the compensation in a worse position than he would have been in if the regulations had been made to have effect only as from the making thereof.
- (4) Regulations under this section—
  - (a) may prescribe the procedure to be followed in making claims for compensation, and the manner in which and the person by whom the question whether any or what compensation is payable is to be determined; and
  - (b) may in particular contain provisions enabling appeals from any determination as to whether any or what compensation is payable to be brought, in such cases and subject to such conditions as may be prescribed by the regulations, before [<sup>F1030</sup>an industrial tribunal].
- (5) No regulations shall be made under this section unless a draft thereof has been approved by a resolution of each House of Parliament.
- (6) Where any of the following authorities, namely the Boards, the new authorities and the Holding Company, are required by any such regulations to pay compensation thereunder, any other of those authorities may arrange to make to the compensating authority payments by way of contributions towards their liability under the regulations; and if the compensating authority satisfy the Minister that any of the other authorities have not made a proper contribution towards that liability, whether by payment of money or by finding employment for persons to or in respect of whom the compensation has become payable, the Minister may require that other authority to make such payment to the compensating authority as appears to the Minister to be just.

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- (7) In relation to regulations under this section in connection with a transfer such as is mentioned in paragraph (a) of subsection (1) thereof to or from the Scottish Group or a subsidiary of theirs, references in the said subsection (1) to the Minister shall be construed as references to the Minister and the Secretary of State acting jointly; and for the purposes of any payment by the Scottish Group under subsection (6) of this section, references to the Minister in the said subsection (6) shall be construed as references to the Secretary of State.

#### **Extent Information**

**E37** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

#### **Textual Amendments**

**F1029** Words in s. 135(1)(a) repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), 152(3), **Sch. 14**; S.I. 1994/571, **art. 5**

**F1030** Words substituted for words “a tribunal established under section 12 of the Industrial Training Act 1964” by **Employment Protection (Consolidation) Act 1978 (c. 44)**, **Sch. 16 para. 6**

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

**C186** S. 135(1) extended by **Transport Act 1978 (c. 55)**, **s. 15(3)**

## **136 Pensions.**

- (1) Subject to subsection (3) of this section, sections 73 and 74 of the Act of 1962 (which relate respectively to the powers of the Boards and the Holding Company as regards pensions and pension schemes and to the Minister’s power to make orders about pensions) shall have effect—
- (a) as if the expression “Board” in each of those sections included each of the new authorities; and
  - (b) as if the reference in subsection (2)(a) of the said section 74 to a pension scheme in which employees of the Commission or a subsidiary of the Commission participated before the vesting date included a reference to a pension scheme in which employees of, or of a subsidiary of, the Railways Board or the Holding Company participated before any relevant transfer date such as is mentioned in subsection (4) of this section.
- (2) If in the case of any transfer such as is mentioned in subsection (4) of this section an order under the said section 74 as applied by this section is made before the transfer date which provides for the transfer on that date from the transferor to some other person of property, rights and liabilities of the transferor relating to any pensions or pension schemes—
- (a) that order may apply to the transfer under the order such of the provisions of Schedule 4 to this Act subject to such modifications as the Minister may consider appropriate; and
  - (b) save as may be provided by that order, the provisions of this Act with respect to the transfer mentioned in the said subsection (4) shall not apply in relation to the property, rights and liabilities to which the order relates.
- (3) In relation to the Scottish Group, references to the Minister—

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- (a) in the said section 73 and, for the purposes of orders relating only to that Group, in the said section 74 and in subsection (2) of this section shall be construed as references to the Secretary of State;
  - [<sup>F848</sup>(aa) in the case of the Waterways Board, to the Scottish Ministers,]
  - (b) in the said section 74 and subsection (2), for the purposes of orders relating both to that Group and to other authorities, shall be construed as references to the Minister and the Secretary of State acting jointly.
- (4) Any person who—
- (a) on the transfer date for the purposes of a transfer under any of the following provisions of this Act, namely, sections 4(1), 4(4), 5(3) (a) or (b), <sup>F849</sup> . . . 28(1), (2) or (5) and 29(2), ceases to be employed by one, and becomes employed by another, of the following bodies, namely, the Railways Board, the Holding Company, the new authorities and any body which is a subsidiary of that Board or Company or of any of the new authorities;
  - (b) on the transfer date for the purposes of any transfer under subsection (2) of section 53 of this Act ceases to be employed by the Holding Company and becomes employed by any publicly-owned body within the meaning of subsection (1)(a) of that section or under the Crown; or
  - (c) on any such transfer date as aforesaid is employed by a body which immediately before that date was a subsidiary of one, but on that date becomes a subsidiary of another, of the following bodies, namely, the Railways Board, the Holding Company and the new authorities,
- shall not in consequence cease to be eligible to participate in any pension scheme in which he was a participant immediately before that transfer date.
- (5) In the application of subsection (4) of this section to a pension scheme the benefits under which are or will be receivable as of right, persons who have obtained pension rights under the scheme without having contributed under the scheme shall be regarded as participants in the scheme; and the reference in that subsection to being eligible to participate in a pension scheme shall be construed accordingly.
- (6) Subsections (4) and (5) of this sections shall have effect subject to any order under section 74 of the Act of 1962 made by virtue of subsection (1) of this section, being an order taking effect on or at any time after the relevant transfer date referred to in the said subsection (4).

#### Textual Amendments

**F848** S. 137(3)(aa) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 51(2)(b)** (with arts. 4-6)

**F849** Words in s. 136(4)(a) repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), 152(3), **Sch.14**; S.I. 1994/571, art. 5

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

**C142** S. 136(2)(4) extended by [Transport Act 1978 \(c. 55\)](#), s. 15(4)

### 137 Machinery for negotiation and consultation with staff. E+W+S

- (1) This section applies to the following authorities, namely—
- (a) <sup>F850</sup> . . . the Waterways Board. . . <sup>F851</sup>;



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- (b) the new authorities;
  - (c) the Executive for any area which is [<sup>F852</sup>an integrated transport area or] a passenger transport area for the purposes of Part II of this Act.
- (2) In the case of each authority to whom this section applies, except so far as the authority are satisfied that adequate machinery exists for achieving the purposes of this section, being machinery for operation at national level or local level or a level falling between those levels and appearing to the authority to be appropriate, it shall be the duty of the authority, either directly, or indirectly by exercising control over subsidiaries, to seek consultation with any organisation appearing to them to be appropriate with a view to the conclusion between the authority and that organisation or, if the authority so decide, between subsidiaries of theirs and that organisation, of such agreements as appear to the parties to be desirable with respect to the establishment and maintenance, for operation at any such level as aforesaid, of machinery for—
- (a) the settlement by negotiation of terms and conditions of employment of persons employed by the authority and by their subsidiaries with provision for reference to arbitration in default of such settlement in such cases as may be determined by or under the agreements;
  - (b) the promotion and encouragement of measures affecting efficiency, in any respect, in the carrying on by the authority and by their subsidiaries of their activities, including in particular the promotion and encouragement of the training of persons employed as aforesaid; and
  - (c) the promotion and encouragement of measures affecting the safety, health and welfare of persons employed as aforesaid.
- (3) Every authority to whom this section applies shall send—
- (a) except in the case of [<sup>F853</sup>the Waterways Board or] such an Executive as aforesaid, to the Minister and to the Secretary of State for Employment and Productivity;
  - (b) in the case of such an Executive, [<sup>F854</sup>to the Integrated Transport Authority for the integrated transport area in question or, in Scotland,] to the [<sup>F855</sup>Passenger Transport Authority for the passenger transport area in question (referred to below in this section as the [<sup>F856</sup>relevant Passenger Transport Authority][<sup>F856</sup>relevant Authority] )],
- copies of any such agreement as aforesaid and of any instrument varying the terms of any such agreement.
- (4) Every authority to whom this section applies shall from time to time, at such times and within such period as—
- (a) except in the case of [<sup>F857</sup>the Waterways Board or] such an Executive as aforesaid, the Minister; <sup>F858</sup> ...
  - <sup>F859</sup>(aa) in the case of the Waterways Board, the Scottish Ministers, or]
  - (b) in the case of such an Executive, the [<sup>F860</sup>[<sup>F861</sup>relevant Passenger Transport Authority][<sup>F860</sup>relevant Authority],
- may direct, report to the Minister and to the Secretary of State aforesaid or, as the case may be, to [<sup>F862</sup>the Scottish Ministers or] the [<sup>F860</sup>[<sup>F861</sup>relevant Passenger Transport Authority][<sup>F860</sup>relevant Authority] as to the progress or lack of progress made in arriving at such agreements as aforesaid.
- (5) Where it falls to any authority to whom this section applies or any subsidiary of theirs to participate in the operation of machinery established under this section, and the operation involves discussion of a subject by other persons participating therein, the

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authority or subsidiary shall make available to those persons, at a reasonable time before the discussion is to take place, such information in their possession relating to the subject as, after consultation with those persons, appears to the authority, or as the case may be, to the subsidiary to be necessary to enable those persons to participate effectively in the discussion.

- (6) Nothing in this section shall be construed as prohibiting any of the authorities to whom this section applies or any subsidiary of theirs from taking part together with other employers or organisations of employers in the establishment and maintenance of machinery for the settlement of terms and conditions of employment and the promotion and encouragement of measures affecting the health, safety and welfare of persons employed by them and the discussion of other matters of mutual interest to the authority or subsidiary and persons employed by them.

[<sup>F863</sup>(7) In this section “the Minister”—

- <sup>F864</sup>(a) . . . . .
- (b) in relation to the Scottish Group, means the Secretary of State for Scotland; and
- [ in relation to <sup>F866</sup>... any other authority, means [<sup>F867</sup>the Secretary of State for <sup>F865</sup>(c) Transport].]

- (8) Section 72 of the Act of 1962 shall cease to apply to the Railways Board, the Waterways Board. . . <sup>F851</sup>

#### Extent Information

**E18** This version of this provision extends to England, Wales and Scotland only; a separate version has been created for Northern Ireland only

#### Textual Amendments

- F850** Words in s. 137(1)(a) repealed (6.1.1994) by ss. 150(1)(o), 152(1)(3), Sch. 12 para. 6(7), Sch. 14; [S.I. 1993/3237](#), [art 2\(2\)](#)
- F851** Words repealed by [S.I. 1973/338](#), [Sch. 2](#)
- F852** Words in s. 137(1)(c) inserted (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), s. 134(4), [Sch. 4 para. 14\(2\)](#); [S.I. 2009/107](#), art. 2(1), Sch. 1 Pt. 1
- F853** Words in s. 137(3)(a) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 51\(2\)\(a\)](#) (with arts. 4-6)
- F854** Words in s. 137(3)(b) inserted (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), s. 134(4), [Sch. 4 para. 14\(3\)\(a\)](#); [S.I. 2009/107](#), art. 2(1), Sch. 1 Pt. 1
- F855** Words commencing “Passenger Transport Authority” substituted (E.W.S.) for words commencing “Authority” by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 57(6), [Sch. 3 para. 18\(b\)](#)
- F856** Words in s. 137(3)(b) substituted (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), s. 134(4), [Sch. 4 para. 14\(3\)\(b\)](#); [S.I. 2009/107](#), art. 2(1), Sch. 1 Pt. 1
- F857** Words in s. 137(4)(a) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 51\(3\)\(a\)](#) (with arts. 4-6)
- F858** Word in s. 137(4)(a) omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 51\(3\)\(a\)](#) (with arts. 4-6)
- F859** S. 137(4)(aa) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), [Sch. 2 para. 51\(3\)\(b\)](#) (with arts. 4-6)
- F860** Words in s. 137(4) substituted (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), s. 134(4), [Sch. 4 para. 14\(4\)](#); [S.I. 2009/107](#), art. 2(1), Sch. 1 Pt. 1
- F861** Words in s. 137(4) substituted (E.W.S.) by [Transport Act 1985 \(c. 67\)](#), s. 57(6), [Sch. 3 para. 18\(c\)](#)

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**F862** Words in s. 137(4) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 51(3)(c)** (with arts. 4-6)

**F863** S. 137(7) substituted by [S.I. 1976/1775](#), **Sch. 3 para. 8**

**F864** S. 137(7)(a) repealed (26.1.1998) by [S.I. 1997/2971](#), art. 6(1), **Sch. para. 3(a)**

**F865** S. 137(7)(c) substituted (26.1.1998) by [1997/2971](#), art. 6(1), Sch. para. 3(b)

**F866** Words in s. 137(7) omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 51(4)** (with arts. 4-6)

**F867** Words in s. 137(7)(c) substituted (25.11.2002) by [S.I. 2002/2626](#), art. 20, **Sch. 2 para. 5**

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

**C143** S. 137 extended by [Transport \(London\) Act 1969 \(c. 35\)](#), s. 13

**137 Machinery for negotiation and consultation with staff. N.I.**

- (1) This section applies to the following authorities, namely—
- (a) <sup>F1031</sup> . . . , the Waterways Board. . . <sup>F1032</sup>;
  - (b) the new authorities;
  - (c) the Executive for any designated area within the meaning of section 9(1) of this Act.
- (2) In the case of each authority to whom this section applies, except so far as the authority are satisfied that adequate machinery exists for achieving the purposes of this section, being machinery for operation at national level or local level or a level falling between those levels and appearing to the authority to be appropriate, it shall be the duty of the authority, either directly, or indirectly by exercising control over subsidiaries, to seek consultation with any organisation appearing to them to be appropriate with a view to the conclusion between the authority and that organisation or, if the authority so decide, between subsidiaries of theirs and that organisation, of such agreements as appear to the parties to be desirable with respect to the establishment and maintenance, for operation at any such level as aforesaid, of machinery for—
- (a) the settlement by negotiation of terms and conditions of employment of persons employed by the authority and by their subsidiaries with provision for reference to arbitration in default of such settlement in such cases as may be determined by or under the agreements;
  - (b) the promotion and encouragement of measures affecting efficiency, in any respect, in the carrying on by the authority and by their subsidiaries of their activities, including in particular the promotion and encouragement of the training of persons employed as aforesaid; and
  - (c) the promotion and encouragement of measures affecting the safety, health and welfare of persons employed as aforesaid.
- (3) Every authority to whom this section applies shall send—
- (a) except in the case of [<sup>F853</sup>the Waterways Board or] such an Executive as aforesaid, to the Minister and to the Secretary of State for Employment and Productivity;
  - <sup>F848</sup>(aa) in the case of the Waterways Board, to the Scottish Ministers,]
  - (b) in the case of such an Executive, to the Authority established under the said section 9(1) for the designated area in question,
- copies of any such agreement as aforesaid and of any instrument varying the terms of any such agreement.

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- (4) Every authority to whom this section applies shall from time to time, at such times and within such period as—
- (a) except in the case of [<sup>F857</sup>the Waterways Board or] such an Executive as aforesaid, the Minister; <sup>F858</sup> ...
  - <sup>F859</sup>(aa) in the case of the Waterways Board, the Scottish Ministers, or]
    - (b) in the case of such an Executive, the Authority established as aforesaid, may direct, report to the Minister and to the Secretary of State aforesaid or, as the case may be, to [<sup>F862</sup>the Scottish Ministers or] the Authority so established as to the progress or lack of progress made in arriving at such agreements as aforesaid.
- (5) Where it falls to any authority to whom this section applies or any subsidiary of theirs to participate in the operation of machinery established under this section, and the operation involves discussion of a subject by other persons participating therein, the authority or subsidiary shall make available to those persons, at a reasonable time before the discussion is to take place, such information in their possession relating to the subject as, after consultation with those persons, appears to the authority, or as the case may be, to the subsidiary to be necessary to enable those persons to participate effectively in the discussion.
- (6) Nothing in this section shall be construed as prohibiting any of the authorities to whom this section applies or any subsidiary of theirs from taking part together with other employers or organisations of employers in the establishment and maintenance of machinery for the settlement of terms and conditions of employment and the promotion and encouragement of measures affecting the health, safety and welfare of persons employed by them and the discussion of other matters of mutual interest to the authority or subsidiary and persons employed by them.
- <sup>F1033</sup>(7) In this section “the Minister”—
- <sup>F1034</sup>(a) . . . . .
  - (b) in relation to the Scottish Group, means the Secretary of State for Scotland; and
  - [ in relation to <sup>F866</sup>... any other authority, means [<sup>F1036</sup>the Secretary of State for <sup>F1035</sup>(c) Transport].]
- (8) Section 72 of the Act of 1962 shall cease to apply to the Railways Board, the Waterways Board. . . <sup>F1032</sup>

#### Extent Information

**E38** This version of this provision extends to Northern Ireland only; a separate version has been created for England, Wales and Scotland only

#### Textual Amendments

**F848** S. 137(3)(aa) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 51(2)(b)** (with arts. 4-6)

**F853** Words in s. 137(3)(a) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 51(2)(a)** (with arts. 4-6)

**F857** Words in s. 137(4)(a) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 51(3)(a)** (with arts. 4-6)

**F858** Word in s. 137(4)(a) omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 51(3)(a)** (with arts. 4-6)

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- F859** S. 137(4)(aa) inserted (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 2 para. 51(3)(b)** (with arts. 4-6)
- F862** Words in s. 137(4) inserted (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 2 para. 51(3)(c)** (with arts. 4-6)
- F866** Words in s. 137(7) omitted (2.7.2012) by virtue of The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 2 para. 51(4)** (with arts. 4-6)
- F1031** Words in s. 137(1) repealed (6.1.1994) by 1993 c. 43, ss. 150(1)(o), 152(1)(3), Sch. 12 para. 6(7), **Sch. 14; S.I. 1993/3237, art. 2(2)**
- F1032** Words repealed by S.I. 1973/338, **Sch. 2**
- F1033** S. 137(7) substituted by S.I. 1976/1775, **Sch. 3 para. 8**
- F1034** S. 137(7)(a) repealed (26.1.1998) by S.I. 1997/2971, art. 6(1), **Sch. para. 3(a)**
- F1035** S. 137(7)(c) substituted (26.1.1998) by S.I. 1997/2971, art. 6(1), **Sch. para. 3(b)**
- F1036** Words in s. 137(7)(c) substituted (25.11.2002) by S.I. 2002/2626, art. 20, **Sch. 2 para. 5**

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

- C187** S. 137 extended by Transport (London) Act 1969 (c. 35), s. 13

**138 Travel concessions.**

F868

**Textual Amendments**

- F868** S. 138 repealed with saving for subsection (2) by Transport Act 1985 (c. 67, SIF 126), s. 139(1)(3), Sch. 6 para. 23(1), **Sch. 8**

**F869 139 Land required as service area for special road: compensation in certain cases of compulsory acquisition.**

**Textual Amendments**

- F869** S. 139 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 14**

**140**

F870

**Textual Amendments**

- F870** S. 140 repealed by Highways Act 1980 (c. 66 SIF 59), Sch. 25

**141 Application of Town and Country Planning Acts.**

- (1) Section 86 of the Act of 1962 (application of Town and Country Planning Acts) shall have effect as if the expression “Board” therein included each of the new authorities and the Executive for any area which is [<sup>F871</sup>an integrated transport area or] a passenger transport area for the purposes of Part II.

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- (2) Where in the case of any company—
- (a) the company is a wholly-owned subsidiary of one of the following bodies, namely, a board, a new authority, or such an Executive as aforesaid; or
  - (b) two or more such bodies as aforesaid are members of the company and, if those bodies were a single body corporate, the company would be a wholly-owned subsidiary of that body corporate,
- the said section 86 shall have effect as if the expression “Board” therein included that company and, so far as the activities of the company consist of the carrying on of any such undertaking as is mentioned in the definition of “statutory undertakers” in [F872 section 336(1) of the Town and Country Planning Act 1990] or in [F873 section 214 of the Town and Country Planning (Scotland) Act 1997], the company shall be deemed for the purposes of the said section 86 and any other enactment relating to statutory undertakers or statutory undertakings to be such undertakers carrying on such an undertaking.
- (3) Subsection (1) of the said section 86 shall apply—
- (a) to anything done by a Board or new authority in the exercise of the powers conferred by section 49(3) or (4) of this Act; and
  - (b) to anything done by such an Executive as aforesaid in the exercise of the powers conferred by paragraph (xxii) of section 10(1) of this Act; and
  - (c) to anything done by such a company as aforesaid which, if that company were a Board or such an Executive as aforesaid, would be an exercise of—
    - (i) the powers referred to in paragraph (a) or (b) of the said subsection (1); or
    - (ii) the powers conferred by the said section 49(3) or (4); or
    - (iii) the powers conferred by the said paragraph (xxii),
 as it applies to anything done by a Board in the exercise of the powers referred to in paragraph (a) or (b) of the said subsection (1).

#### Textual Amendments

**F871** Words in s. 141(1) inserted (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), s. 134(4), [Sch. 4 para. 15](#); S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1

**F872** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 22\(4\)](#)

**F873** Words in s. 141(2) substituted (27.5.1997) by [1997 c. 11, s. 4](#), [Sch. 2 para. 17\(3\)](#)

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

**C144** S. 141 amended by [Transport \(London\) Act 1969 \(c. 35\)](#), [Sch. 3 para 1\(1\)\(2\)](#)

#### <sup>F874</sup> 142 Powers of Minister in connection with channel tunnel.

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#### Textual Amendments

**F874** S. 142 repealed (21.7.2008) by [Statute Law \(Repeals\) Act 2008 \(c. 12\)](#), [Sch. 1 Pt. 11](#)

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143 ..... F875

**Textual Amendments**

**F875** S. 143 repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\)](#), s 1(1), [Sch. 1 Part X](#)

**144 Transfer and disposal of historical records and relics.**

(1) Subject to subsections (2) to (4) of this section, the Railways Board may, with the consent of the Minister—

- (a) transfer without consideration to the Secretary of State for Education and Science any of the historical records and relics which were vested in the Board by section 31(2)(f) of the Act of 1962 and are for the time being in the possession of the Board, and any premises of the Board in which any significant collection of those records or relics is housed;
- (b) transfer, without consideration or by way of sale, to any other person, or otherwise dispose of, any of those records or relics.

(2) No record vested in the Railways Board by the said section 31(2)(f) which is housed by the Board in premises in Scotland shall under subsection (1) of this section be transferred to any person other than the Secretary of State for Scotland or otherwise disposed of unless that record—

- (a) has been previously offered by the Board to that Secretary of State; and
- (b) has not been claimed by that Secretary of State within six months of the date on which the offer was made;

and if the record is claimed as aforesaid the Board shall transfer it without consideration to that Secretary of State.

(3) No record having special associations with the undertaking of [<sup>F876</sup>Transport for London], and no relic having special associations with the undertaking of any relevant authority (that is to say, [<sup>F876</sup>Transport for London] any of the Boards other than the Railways Board, [<sup>F877</sup>Canal & River Trust,] any of the new authorities or the Holding Company) shall under subsection (1) of this section be transferred to any person other than the authority in question or otherwise disposed of unless—

- (a) it has been previously offered by the Railways Board to that authority; and
- (b) it has not been claimed by that authority within six months of the date on which the offer was made;

and if the record or relic is claimed as aforesaid the Railways Board shall transfer it without consideration to that authority.

(4) There shall be no transfer or disposal of any record or relic under subsection (1)(b) of this section, except in pursuance of subsection (2) or (3) of this section, unless—

- (a) the record or relic has been previously offered by the Railways Board to the Secretary of State for Education and Science; and
- (b) it has not been claimed by him within six months of the date on which the offer was made;

and, in the case of a record, before consenting to a transfer or disposal to which the foregoing provisions of this subsection apply, the Minister shall consult with such persons as the Minister and the Secretary of State for Education and Science acting jointly may consider—

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- (i) to possess appropriate qualifications for advising on the treatment of records of the class or description to which the particular record in question belongs; and
  - (ii) to be the appropriate persons to consult with respect to that particular record.
- (5) Where any record or relic has been transferred to any relevant authority under subsection (3) of this section or under paragraph 4 of the British Transport Historical Relics Scheme 1963, that relevant authority shall, in respect of that record or relic, have the same powers, exercisable subject to the same conditions, as the Railways Board have under subsection (1) of this section in respect of the records and relics there mentioned.
- (6) Subsections (1) to (5) of this section shall have effect notwithstanding anything in the schemes in force under paragraph 1(5) of Schedule 6 to the Act of 1962 (which impose duties as to the preservation of the historical records and relics vested in the Railways Board by that Act) and the Railways Board may, with the approval of the Minister, vary or revoke any such scheme so far as appears to the Board and the Minister to be expedient in consequence of those subsections; but, where any record or relic which has been transferred to a relevant authority under subsection (3) of this section or under paragraph 4 of the said Scheme of 1963 is for the time being in the possession of that or any other relevant authority, then (without prejudice to the powers conferred by subsection (5) of this section and to any relevant requirement of any scheme made under the said paragraph 1(5) which remains in force with or without variations made under this subsection) it shall be the duty of the relevant authority for the time being having possession of that record or relic to preserve it in suitable accommodation.
- (7) Neither the Railways Board nor [<sup>F876</sup>Transport for London] shall dispose of any document or object for the time being in their possession which was not vested in them by the said section 31(2)(f) but falls within a class of documents or objects for the time specified by an agreement between the Board concerned and the Secretary of State for Education and Science as of sufficient interest to warrant preservation in any collection maintained or proposed to be maintained by him, unless—
- (a) it has been previously offered by the Board to that Secretary of State; and
  - (b) it has not been claimed by him within six months of the date on which the offer was made;
- and if that document or object is claimed as aforesaid the Board concerned shall transfer it without consideration to that Secretary of State.
- [<sup>F878</sup>In relation to any document or object in the possession of London Regional Transport, references above in this subsection to the Board concerned are references to [<sup>F876</sup>Transport for London] .]
- [<sup>F879</sup>(7A) Neither subsection (4) nor subsection (7) above shall apply to a transfer by London Regional Transport of any record or relic or (as the case may be) of any document or object to any subsidiary of theirs; but in relation to any such record, relic, document or object for the time being in the possession of a subsidiary or former subsidiary of [<sup>F876</sup>Transport for London] —
- (a) references to a relevant authority in subsections (5) and (6) of this section and references to London Regional Transport in subsection (7) of this section (except in the reference to an agreement between [<sup>F876</sup>Transport for London] and the Secretary of State) shall be read as including that subsidiary or former subsidiary; and



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- (b) the foregoing provisions of this subsection shall apply for the purposes of subsection (4) of this section (as it applies by virtue of subsection (5)) and for the purposes of subsection (7) of this section as if the reference to a transfer by [<sup>F876</sup>Transport for London] to any subsidiary in question to any subsidiary of [<sup>F876</sup>Transport for London].]
- (8) Any offer or claim for the purposes of this section shall be in writing; and any such claim shall be of no effect unless—
- (a) it contains a statement of the time (which shall be not more than three months after the date of the claim) when the claimant proposes to remove what he has claimed; and
- (b) the claimant removes what he has claimed in accordance with that statement or at such later time as may be allowed by the authority to whom the claim was made.
- (9) Nothing in Schedule 1 to the <sup>M48</sup>Public Records Act 1958 shall cause any records transferred under this section to become, by reason of that or any subsequent transfer, public records within the meaning of that Act; but any records so transferred which at any time are for the time being in the custody of the Secretary of State for Scotland may be treated for the purposes of section 5(1) of the <sup>M49</sup>Public Records (Scotland) Act 1937 as records belonging to Her Majesty.

#### Textual Amendments

- F876** Words in s. 144 substituted (15.7.2003) by Greater London Authority Act 1999 (c. 29), ss. **301(2)**, **425(2)** (with Sch. 12 para. 9(1)); S.I. 2003/1920, art. 2(d)
- F877** Words in s. 144(3) inserted (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 2 para. 52** (with arts. 4-6)
- F878** Paragraph inserted by London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 4 Pt. I para. 5(c)**
- F879** S. 144(7A) inserted by London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 4 Pt. I para. 5(d)**

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

- C145** S. 144: Functions of the Secretary of State for Education and Science transferred (3.7.1992) to the Secretary of State for National Heritage by S.I. 1992/1311, **art.5(1)**.  
S. 144 shall cease to have effect in relation to transfers or other disposals by the Board (2.9.1994) by S.I. 1994/2032, **art. 3**
- C146** S. 144 restricted (1.1.1993) by S.I. 1992/3060, **reg.4(2)**.
- C147** S. 144 restricted (*prosp*) by 1993 c. 43, ss. **125(8)**, **154(2)** which was repealed and superseded (18.9.1996) by 1996 c.42, s. **8(2)**

#### Marginal Citations

- M48** 1958 c. 51.  
**M49** 1937 c. 43.

#### <sup>F880</sup>145 Minor amendments of Road Traffic Act 1960.

#### Textual Amendments

- F880** S. 145 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 14**

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[<sup>F881</sup> 146 Approval marks.

- (1) Section 47 of the <sup>M50</sup>Road Traffic Act 1962 (which relates to approval marks for motor vehicle parts for the purposes of certain international agreements) shall apply where any international agreement to which the United Kingdom is a party provides—
  - (a) for markings to be applied to a motor vehicle to indicate that the vehicle is fitted with motor vehicle parts within the meaning of that section of any description and either—
    - (i) that the parts conform with a type approved by any country; or
    - (ii) that the vehicle is such that as so fitted it conforms with a type so approved; and
  - (b) for motor vehicles bearing those markings to be recognised as complying with the requirements imposed by the law of another country,
 as it applies where such an agreement provides as mentioned in paragraphs (a) and (b) of subsection (1) of that section.
- (2) In the said section 47, the expression “motor vehicle part” shall include any equipment for the protection of drivers or passengers in or on a motor vehicle notwithstanding that it does not form part of, or of the equipment of, that vehicle.
- (3) In this section, the expression “motor vehicle” means a mechanically propelled vehicle or a vehicle designed or adapted for towing by a mechanically propelled vehicle.]

**Textual Amendments**  
**F881** S. 146 repealed (E.W.)(S.) by [Road Traffic Act 1972 \(c. 20, SIF 107:1\)](#), s. 205, [Sch. 9 Pt. I](#)

**Marginal Citations**  
**M50** [1962 c. 59](#).

147 ..... <sup>F882</sup>

**Textual Amendments**  
**F882** S. 147 repealed by [Vehicles \(Excise\) Act 1971 \(c. 10, SIF 107:2\)](#), s. 39, [Sch. 8 Pt. I](#)

148 ..... <sup>F883</sup>

**Textual Amendments**  
**F883** S. 148 repealed by [Road Traffic Act 1972 \(c. 20, SIF 107:2\)](#), s. 205, [Sch. 9 Pt. I](#)

149 ..... <sup>F884</sup>

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**Textual Amendments**

**F884** S. 149 repealed by [Road Traffic Regulation Act 1984 \(c. 27, SIF 107:1\)](#), s. 144, **Sch. 14**

**150** ..... **F885**

**Textual Amendments**

**F885** S. 150 repealed by [Transport Act 1980 \(c. 34, SIF 126\)](#), **Sch. 9 Pt. II**

**151** ..... **F886**

**Textual Amendments**

**F886** S. 151 repealed by [Local Government \(Scotland\) Act 1973 \(c. 65, SIF 81:2\)](#), **Sch. 29**

**152** ..... **F887**

**Textual Amendments**

**F887** S. 152 repealed by [Harbours, Piers and Ferries \(Scotland\) Act 1972 \(c. 29, SIF 58\)](#), **s. 1(1)**

**153** ..... **F888**

**Textual Amendments**

**F888** S. 153 repealed by [Dock Work Act 1989 \(c. 13, SIF 43:1\)](#), s. 7(1), **Sch. 1 Part I**

**154** ..... **F889**

**Textual Amendments**

**F889** S. 154 repealed by [Statute Law Repeals Act 1981 \(c. 19\)](#), **Sch. 1, Pt. VII**

**155** ..... **F890**

**Textual Amendments**

**F890** S. 155 repealed by [House of Commons Disqualification Act 1975 \(c. 24, SIF 89\)](#), **Sch. 3** and Northern Ireland Assembly Disqualification Act 1975 (c. 25, SIF 29:3), **Sch. 3 Pt. I**

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## 156 Miscellaneous, supplementary and consequential provisions.

- (1) With a view to giving the public advance notice of plans for the discontinuance of any rail or shipping services provided by . . . <sup>F891</sup> the Scottish Group or any subsidiary of . . . <sup>F891</sup> or Group, that . . . <sup>F891</sup> Group shall from time to time publish in such manner and in such places in the United Kingdom as . . . <sup>F891</sup> the Secretary of State may direct such information as to their plans as . . . <sup>F891</sup> the Secretary of State may determine.
- (2) The enactments referred to in Schedule 16 to this Act shall have effect subject to the provisions of that Schedule, being provisions supplementary to or consequential on provisions of this Act.

### Textual Amendments

**F891** Words repealed by [Transport Act 1980 \(c. 34, SIF 126\)](#), **Sch. 9 Pt. III**

## 157 Orders and regulations.

Any power to make orders or regulations conferred on any Minister by any provision of this Act shall <sup>F892</sup> . . . be exercisable by statutory instrument; and any power to make an order under any provision of this Act shall include power to make such an order varying or revoking any previous order under that provision.

### Textual Amendments

**F892** Words in s. 157 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 14**

## 158 Inquiries.

- (1) The Minister may hold inquiries for the purposes of his functions under any provision of this Act <sup>F893</sup> . . . as if those purposes were purposes of the <sup>M51</sup>Ministry of Transport Act 1919 and section 20 of that Act shall apply accordingly.
- (2) For the purposes of any functions under this Act of the Secretary of State for Scotland or the Secretary of State for Wales, subsection (1) of this section, the said section 20 and section 90(2) to (7) of the Act of 1962 shall have effect as if for any reference therein to the Minister there were substituted a reference to that Secretary of State.

### Textual Amendments

**F893** Words in s. 158 repealed (1.4.1995) by [1995 c. 23, s. 60\(1\)\(2\)](#), **Sch. 7 para. 4 Sch. 8 Pt. I**; [S.I. 1994/3188, art. 4](#)

### Modifications etc. (not altering text)

**C148** S. 158(1) modified (1.6.1993) by [S.I. 1993/1119, reg. 4\(1\)\(a\)](#), **Sch. 1 para. 2**

### Marginal Citations

**M51** [1919 c. 50](#).

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## 159 Interpretation—general.

(1) In this Act, except where the context otherwise requires, and except in any Part as respects which the expression in question is separately defined, the following expressions have the following meanings respectively, that is to say—

“the Act of 1960” means the <sup>M52</sup>Road Traffic Act 1960;

“the Act of 1962” means the <sup>M53</sup>Transport Act 1962;

“appointed day” means the relevant day appointed under section 166(2) of this Act;

[<sup>F894</sup>“area bus service” means a bus service which is, or so far as it is, a service on which passengers may be taken up and set down at different places within the same area designated under section 9(1) of this Act, whether or not any passengers on that service may also be taken up or set down outside that area;]

“the Boards” means the Boards established under section 1 of the Act of 1962, namely, the British Railways Board, . . . <sup>F895</sup> the British Transport Docks Board and the British Waterways Board, and references to a Board shall be construed accordingly;

[<sup>F896</sup>“the Bus Company” means the National Bus Company established under section 24 of this Act;

[<sup>F897</sup>[<sup>F898</sup>“bus service” means a stage carriage service within the meaning of Part I of [<sup>F899</sup>the Public Passenger Vehicles Act ]<sup>M54</sup> which is neither—

(a) an excursion or tour; nor

(b) a service as regards which the condition specified in [<sup>F899</sup>section 2(3)(a) of the Public Passenger Vehicles Act 1981] (long journeys only) is satisfied;]]

[<sup>F897</sup>“bus service” means a local service other than one on which the passengers travel together on a journey, with or without breaks, from one or more places to one or more places and back]

[<sup>F900</sup>“carriageway” has the same meaning as in the Roads (Scotland) Act <sup>M55</sup>1984;]

“charges” includes fares, rates, tolls and dues of every description;

“the Docks Board” means the British Transport Docks Board established under section 1 of the Act of 1962;

[<sup>F901</sup>[<sup>F898</sup>“excursion or tour” means a stage or express carriage service on which the passengers travel together on a journey, with or without breaks, from one or more places to one or more other places and back;]

“express carriage” and “stage carriage” have the same meanings respectively as for the purposes of the [<sup>F899</sup>Public Passenger Vehicles Act 1981];]

“ferry service” means a transport service by water (including such a service by means of a hovercraft) which carries passengers and operates regularly between two or more points both or all of which are in Great Britain;

<sup>F902</sup>“functions” includes powers, duties and obligations;

“goods” includes animals and mails;

“harbour” has the same meaning as in the Act of 1962;

“highway authority” in relation to any highway means—

(a) for the purposes of the application of this Act to England or Wales, the highway authority for that highway under Part I of [<sup>F903</sup>the <sup>M56</sup>Highways Act 1980];

[<sup>F904</sup>(b) for the purposes of the application of this Act to Scotland—

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- (i) where the highway is a trunk road, the Secretary of State; and
  - (ii) in any other case, the [<sup>F905</sup>regional or islands council];
- “the Holding Company” means the Transport Holding Company established under section 29 of the Act of 1962;
- “hovercraft” has the same meaning as in the <sup>M57</sup>Hovercraft Act 1968;
- “inland waterway” includes every such waterway whether natural or artificial;
- “land” includes land covered by water and any interest or right in, over or under land;
- “lease” includes an agreement for a lease;
- “liability” includes an obligation;
- [<sup>F906</sup>“local roads authority” has the same meaning as in the Roads (Scotland) Act 1984;]
- [<sup>F907</sup>“local service” has the same meaning as in the Transport Act 1985;]
- <sup>F908</sup>“the Minister” means, save as otherwise expressly provided and in particular subject to sections <sup>F909</sup>. . . 9(6), 17(6)(a) and 28(6) of this Act, [<sup>F910</sup>the Secretary of State];
- “the new authorities” means. . . <sup>F911</sup>[<sup>F912</sup>the Bus Company and][<sup>F913</sup>the Scottish Group];
- “participant”, in relation to a pension scheme, means a person who (whether he is referred to in the scheme as a member, as a contributor or otherwise) contributes or has contributed under the scheme and has pension rights thereunder and “participate” shall be construed accordingly;
- “pension”, in relation to a person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a gratuity so payable and a return of contributions to a pension fund, with or without interest thereon or any other addition thereto and any sums payable on or in respect of the death of that person;
- “pension fund” means a fund established for the purposes of paying pensions;
- “pension rights” includes, in relation to any person, all forms of right to or eligibility for the present or future payment of a pension, and any expectation of the accruer of a pension under any customary practice, and includes a right of allocation in respect of the present or future payment of a pension;
- “pension scheme” includes any form of arrangement for the payment of pensions, whether subsisting by virtue of Act of Parliament, trust, contract or otherwise;
- “plated weight”, in relation to a vehicle, means a weight required to be marked on it by means of a plate in pursuance of regulations made by virtue of [<sup>F914</sup>section 41 of the Road Traffic Act 1988 or required to be so marked by section 57 or 58 of that Act.];
- [<sup>F915</sup>“public road” has the same meaning as in the Roads (Scotland) Act 1984;]
- “public service vehicle” has the same meaning as for the purposes of the [<sup>F899</sup>Public Passenger Vehicles Act 1981];
- “the Railways Board” means the British Railways Board established under section 1 of the Act of 1962;
- [<sup>F916</sup>“road” and “roads authority” have the same meanings as in the Roads (Scotland) Act 1984;]

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[<sup>F917</sup>“road service licence” has the same meaning as for the purposes of the Act of 1960. . . .<sup>F918</sup>;

[<sup>F919</sup>“Scottish Group” means the Scottish Transport Group established under section 24 of this Act;]

“securities”, in relation to a body corporate, means any shares, stock, debentures, debenture stock, and any other security of a like nature, of the body corporate;

“subsidiary” and “wholly-owned subsidiary”, [<sup>F920</sup>subject to sections 23A(2) and 51(5)] of this Act, have the same meanings respectively as in the Act of 1962;

“vehicle” includes a hovercraft;

“the Waterways Board” means the British Waterways Board established under section 1 of the Act of 1962;

“Wales” includes Monmouthshire, and references to England shall be construed accordingly.

- (2) Except where the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment, including this Act.

[<sup>F921</sup>(3) In this Act—

- (a) any reference to a county (other than one to a metropolitan county) shall be construed in relation to Wales as including a reference to a county borough;
- (b) any reference to a county council shall be construed in relation to Wales as including a reference to a county borough council; and
- (c) section 17(4) and (5) of the Local Government (Wales) Act 1994 (references to counties and districts to be construed generally in relation to Wales as references to counties and county boroughs) shall not apply.]

### Textual Amendments

**F894** Definition repealed (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 139(3), [Sch. 8](#)

**F895** Words repealed by [Transport \(London\) Act 1969 \(c. 35, SIF 126\)](#), [Sch. 6](#)

**F896** S. 159(1): definition of “the bus company” repealed (E.W.) (1.4.1991) by [S.I. 1991/510, reg. 5](#), [Sch.](#)

**F897** Definition commencing “ “bus service” means a local service” substituted (E.W.S.) for the definition commencing “ “bus service” means a stage” by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 1, [Sch. 1 para. 1\(a\)](#)

**F898** Definitions substituted by [Transport Act 1980 \(c. 34\)](#), [Sch. 5 Pt. II](#)

**F899** Words substituted by [Public Passenger Vehicles Act 1981 \(c. 14, SIF 108\)](#), s. 157(2), [Sch. 9 para. 66\(10\)\(a\)](#)

**F900** Definition inserted (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), [Sch. 9 para. 66\(10\)\(a\)](#)

**F901** Definitions repealed (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 139(3), [Sch. 8](#)

**F902** Definition repealed by [Transport Act 1980 \(c. 34\)](#), [Sch. 9 Pt. III](#)

**F903** Words substituted by [Highways Act 1980 \(c. 66\)](#), [Sch. 24 para. 18](#)

**F904** Paragraph (b) repealed (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), ss 156(3), 157(2), [Sch. 11](#)

**F905** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 14 para. 76](#)

**F906** Definition inserted (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), [Sch. 9 para. 66\(10\)\(c\)](#)

**F907** Definition inserted (E.W.S.) by [Transport Act 1985 \(c.67, SIF 126\)](#), s. 1, [Sch. 1 para. 1\(b\)](#)

**F908** Definition repealed by [Transport \(London\) Act 1969 \(c. 35\)](#), [Sch. 6](#)

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- F909** S. 159(1): words in definition of “the Minister” repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), 152(3), **Sch. 14**; S.I. 1994/571, **art. 5**
- F910** Words substituted by virtue of S.I. 1981/238, **arts. 2(2), 3(2)-(4)**
- F911** Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**
- F912** S. 159(1): words in definition of “the new authorities” repealed (E.W.) (1.4.1991) by S.I. 1991/510, **art. 5, Sch.**
- F913** S. 159(1): words in definition repealed (S.) (7.6.2002) by S.S.I. 2002/263, **art. 5(2), Sch.**
- F914** Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 6(8)**
- F915** Definition inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(10)(d)**
- F916** Definition inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(10)(e)**
- F917** Definition repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 139(3), **Sch. 8**
- F918** Words repealed by Transport Act 1980 (c. 34), **Sch. 9 Pt. I**
- F919** S. 159(1): definition repealed (S.) (7.6.2002) by S.S.I. 2002/263, **art. 5(2), Sch.**
- F920** S. 159(1): words in definition of “subsidiary” substituted (1.4.1994) by 1993 c. 43, **s. 36(5)**; S.I. 1994/571, **art. 5**
- F921** S. 159(3) added (1.4.1996) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. II para. 35** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, **art. 3, Sch. 1**

#### Marginal Citations

- M52** 1960 c. 16.  
**M53** 1962 c. 46.  
**M54** 1981 c. 14(107:1).  
**M55** 1984 c. 54(108).  
**M56** 1980 c. 66.  
**M57** 1968 c. 59.

#### 160 Stamp duty. **E+W+S**

- (1) Nothing in section 12 of the <sup>M58</sup>Finance Act 1895 (which requires Acts to be stamped as conveyances on sale in certain cases) <sup>F922</sup>... shall be taken as applying to this Act.
- <sup>F923</sup>(2) .....
- <sup>F923</sup>(3) .....
- <sup>F924</sup>(4) .....
- (5) Stamp duty shall not be chargeable on any instrument which is certified to the Commissioners of Inland Revenue by the appropriate Board or new authority or appropriate Executive for any area which is [<sup>F925</sup>an integrated transport area or] a passenger transport area for the purposes of Part II of this Act as having been made or executed in pursuance of Schedule 4 to this Act <sup>F926</sup>... ; but no such instrument shall be deemed to be duly stamped unless it is stamped with the duty to which it would but for this subsection be liable or it has, in accordance with the provisions of section 12 of the <sup>M59</sup>Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped.



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### Extent Information

**E19** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

### Textual Amendments

**F922** Words in s. 160(1) omitted (with effect in accordance with Sch. 39 para. 10(1) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 39 para. 1\(2\)\(c\)](#) (with [Sch. 39 paras. 11-13](#))

**F923** S. 160(2)(3) repealed by [Finance Act 1988 \(c. 39, SIF 114\)](#), s. 148, [Sch. 14 Part XI](#)

**F924** S. 160(4) repealed by [Finance Act 1973 \(c. 51, 63:1:2\)](#), s. 59(7), [Sch. 22 Pt. V](#)

**F925** Words in s. 160(5) inserted (E.W.) (9.2.2009) by [Local Transport Act 2008 \(c. 26\)](#), s. 134(4), [Sch. 4 para. 16](#); [S.I. 2009/107](#), [art. 2\(1\)](#), [Sch. 1 Pt. 1](#)

**F926** Words in s. 160(5) repealed (1.4.1994) by [1993 c. 43](#), [ss. 150\(1\)\(o\), 152\(3\)](#), [Sch.14](#); [S.I. 1994/571](#), [art. 5](#)

### Marginal Citations

**M58** [1895 c. 16](#).

**M59** [1891 c. 39](#).

## <sup>F1037</sup> 160 Stamp duty. **N.I.**

(1) Nothing in section 12 of the <sup>M76</sup>Finance Act 1895 (which requires Acts to be stamped as conveyances on sale in certain cases) <sup>F922</sup>... shall be taken as applying to this Act.

(2) ..... <sup>F1038</sup>

(4) ..... <sup>F1039</sup>

(5) Stamp duty shall not be chargeable on any instrument which is certified to the Commissioners of Inland Revenue by the appropriate Board or new authority or appropriate Executive established under section 9(1) of this Act as having been made or executed in pursuance of Schedule 4 to this Act <sup>F1040</sup>...; but no such instrument shall be deemed to be duly stamped unless it is stamped with the duty to which it would but for this subsection be liable or it has, in accordance with the provisions of section 12 of the <sup>M77</sup>Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped.

### Textual Amendments

**F922** Words in s. 160(1) omitted (with effect in accordance with Sch. 39 para. 10(1) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 39 para. 1\(2\)\(c\)](#) (with [Sch. 39 paras. 11-13](#))

**F1037** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

**F1038** S. 160(2)(3) repealed by [Finance Act 1988 \(c. 39, SIF 114\)](#), s. 148, [Sch. 14 Part XI](#)

**F1039** S. 160(4) repealed by [Finance Act 1973 \(c. 51, 63:1:2\)](#), s. 59(7), [Sch. 22 Pt. V](#)

**F1040** Words in s. 160(5) repealed (1.4.1994) by [1993 c. 43](#), [ss. 150\(1\)\(o\), 152\(3\)](#), [Sch. 14](#); [S.I. 1994/571](#), [art. 5](#)

### Marginal Citations

**M76** [1895 c. 16](#).

**M77** [1891 c. 39](#).

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## <sup>F927</sup>161 Income tax, etc.

.....

### Textual Amendments

**F927** S. 161 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 14

## 162 Rating.

- [<sup>F928</sup>(1) Where any premises are occupied wholly or partly—
- (a) for purposes of a subsidiary of the Railways Board, [<sup>F929</sup>the London Transport Executive] or the Waterways Board which, if the undertaking of that subsidiary formed part of the undertaking of that Board, would be non-rateable purposes within the meaning of subsection (6) of section 32 of the <sup>M60</sup>General Rate Act 1967;.. . <sup>F930</sup>
  - (b) ..... <sup>F931</sup>
- then, for the purposes of the rating of those premises so far as they are occupied for such purposes as are mentioned in paragraph (a). . . <sup>F932</sup> of this subsection, the undertaking of that subsidiary of that Board. . . <sup>F932</sup> shall be deemed to form part of the undertaking of that Board and the premises so far as so occupied shall be deemed to be occupied for non-rateable purposes of that Board.]
- (2) ..... <sup>F933</sup>
- [<sup>F928</sup>(3) Notwithstanding anything in subsection (6) or (7) of the said section 32, purposes of the exercise by any of the Boards aforesaid. . . <sup>F932</sup> of any powers conferred by section 48 or subsections (1) to (7) of section 50 of this Act or purposes of the exercise by a subsidiary of any of those Boards. . . <sup>F932</sup> of corresponding powers shall not be treated as non-rateable purposes within the meaning of the said section 32(6).]
- (4) Where any premises are occupied partly for such purposes as are mentioned in subsection (1)(a). . . <sup>F932</sup> of this section and partly for other purposes. . . <sup>F932</sup> of such a subsidiary as is so mentioned, then—
- [<sup>F928</sup>(a) where those premises are a hereditament in England or Wales—
    - (i) there shall be ascribed to the hereditament under section 19 of the said Act of 1967 such net annual value as may be just having regard to the extent to which it is occupied for those other purposes; and
    - (ii) if under any scheme for the time being in force such as is mentioned in section 117(7) of that Act any deduction falls to be made from the net annual value of the hereditament in arriving at its rateable value, that deduction shall be calculated with regard only to those other purposes;]
  - (b) where those premises are lands and heritages within the meaning of the <sup>M61</sup>Lands Valuation (Scotland) Act 1854—
    - (i) it shall be the duty of the Assessor of Public Undertakings (Scotland) to ascertain and fix such net annual value as may be just, having regard to the extent to which the premises are occupied for those other purposes, and for the foregoing purpose subsections (2) and (3) of section 124 of the <sup>M62</sup>Local Government Act 1948 (subjects to be valued by Assessor of Public Undertakings (Scotland) shall apply as they apply for the purposes of subsection (1) of that section; and

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- (ii) the deduction, if any, to be made by the Assessor from the net annual value in arriving at the rateable value shall be calculated with regard only to those other purposes.

[<sup>F928</sup>(5) Section 32(4) of the said Act 1967 (which provides for the rating of railway or canal premises in England and Wales occupied partly for certain specified purposes) shall have effect as if after paragraph (b) thereof there were inserted the following paragraph:

“(c) purposes of the exercise by a transport Board of any powers conferred by section 48 or subsections (1) to (7) of section 50 of the Transport Act 1968”.]

(6) Section 87(1) of the said Act of 1948 (which provides for the rating of railway or canal premises in Scotland occupied partly for non-rateable purposes and partly for other purposes) shall have effect in relation to the Railways Board and the Waterways Board as if references to other purposes included only references to other purposes being—

- (a) purposes of any parts of the undertaking of either of those Boards which, within the meaning of section 86 of that Act, are concerned with the carriage of goods or passengers by road transport or sea transport or with harbours; or
- (b) purposes of any parts of the said undertakings which are subsidiary or incidental to any such part as aforesaid; or
- (c) purposes of the exercise by those Boards of any powers conferred by section 48 or subsections (1) to (7) of section 50 of this Act.

(7) In the application of this section to Scotland—

- (a) for any reference to subsection (6) of section 32 of the said Act of 1967 there shall be substituted a reference to section 86(2) of the <sup>M63</sup>Local Government Act 1948;
- (b) for the reference to subsection (5) of the said section 32 there shall be substituted a reference to section 66(3) of the Act of 1962.

#### Textual Amendments

**F928** S. 162(1)(3)(4)(a)(5) repealed (E.W.) (*prosp*) by [Rates Act 1984 \(c. 33, SIF 103:1\)](#), [Sch. 1 para. 6\(7\)\(b\)\(8\)](#) and expressed to be repealed (E.W.) by [S.I. 1990/776, art. 3, Sch. 1](#)

**F929** Words substituted for reference to the London Board by virtue of [Transport \(London\) Act 1969 \(c. 35\), s. 45\(1\)](#), [Sch. 3 para. 1\(1\)\(2\)](#)

**F930** Word repealed by [Transport Act 1980 \(c. 34, SIF 126\)](#), [Sch. 9 Pt. III](#)

**F931** S. 162(1)(b) repealed by [Transport Act 1980 \(c. 34\)](#), [Sch. 9 Pt. III](#)

**F932** Words repealed by [Transport Act 1980 \(c. 34, SIF 126\)](#), [Sch. 9 Pt. III](#)

**F933** S. 162(2) repealed by [Transport Act 1980 \(c. 34, SIF 126\)](#), [Sch. 9 Pt. III](#)

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

**C149** The text of s. 103(8), 161(4), 162(5), Sch. 16, paras. 8(1)(3), 9, 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M60** 1967 c. 9.

**M61** 1854 c. 91.

**M62** 1948 c. 26.

**M63** 1948 c. 26.

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**163 Expenses.**

There shall be paid out of moneys provided by Parliament—

- (a) any expenses incurred by any Minister under or in consequence of the provisions of this Act;
- (b) any increase attributable to any of the provisions of this Act in the sums so payable under any other Act.

**164 Application to Northern Ireland.**

(1) The provisions of this Act set out in Part I of Schedule 17 to this Act shall extend to Northern Ireland subject to the modifications set out in Part II of that Schedule, but save as aforesaid this Act shall not extend to Northern Ireland.

(2) ..... <sup>F934</sup>

.....

**Textual Amendments**  
**F934** S. 164(2) repealed by [Northern Ireland Constitution Act 1973 \(c. 36, SIF 29:3\)](#), **Sch. 6 Pt. I**

**165** ..... <sup>F935</sup>

.....

**Textual Amendments**  
**F935** S. 165 repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), **Sch. Pt. VI**

**166 Short title and commencement.**

- (1) This Act may be cited as the Transport Act 1968.
- (2) Section 93 of this Act shall come into force on the passing of this Act and the other provisions of this Act shall come into force on such day as, subject to subsection (3) of this section, the Minister may by order appoint, and different days may be appointed for different purposes and different provisions of this Act.
- (3) The reference to the Minister in subsection (2) of this section shall be construed—
  - (a) in relation to—
    - (i) the provisions of Part II of this Act; and
    - (ii) any of the following provisions of this Act, namely, sections 34, 36, 37, 44, 56, 116 to 119, 121, 122 and 126 to 130; and
    - (iii) the bringing into force with respect to the Scottish Group of any provision of this Act which refers to that Group,
 as a reference to the Minister and the Secretary of State acting jointly;
  - (b) in relation to section 131 of this Act and to any section of this Act which relates only to Scotland, as a reference to the Secretary of State.

.....

**Modifications etc. (not altering text)**  
**C150** Power of appointment conferred by s. 166(2) not fully exercised

**Status:**

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**Changes to legislation:**

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