



Transport Act 1985

1985 CHAPTER 67

PART IV

LOCAL PASSENGER TRANSPORT SERVICES

Further provisions with respect to companies formed under Part IV

72 The public transport companies and their controlling authorities.

- (1) References in this Part of this Act to a public transport company are references to any of the following—
 - (a) any company which was formed under section 59 of this Act by the Passenger Transport Executive for any passenger transport area and is for the time being a subsidiary of that Executive or of the Passenger Transport Authority for that area;
 - (b) any company which was formed under section 61 of this Act by the Passenger Transport Authority for any passenger transport area and is for the time being a subsidiary of that Authority; and
 - (c) any company which was formed by one or more councils under section 67 of this Act and is for the time being under local authority control.
- (2) A company formed under section 67 of this Act shall be treated for the purposes of subsection (1)(c) above as under local authority control at any time when either—
 - (a) it is a subsidiary of a single district council in England and Wales or, in Scotland, of a single ^[F1]council (other than the council for Orkney Islands, Shetland Islands or Western Isles) or
 - (b) if two or more such councils who are members of the company were a single body corporate, it would be a subsidiary of that body corporate.
- (3) References in this Part of this Act to a public transport company's controlling authority—

Status: Point in time view as at 01/04/2008.

Changes to legislation: Transport Act 1985, Cross Heading: Further provisions with respect to companies formed under Part IV is up to date with all changes known to be in force on or before 27 June 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)

- (a) in relation to a company within subsection (1)(a) or (b) above, are references to the Passenger Transport Executive or (as the case may be) the Passenger Transport Authority of whom it is a subsidiary; and
 - (b) in relation to a company within subsection (1)(c) above, are references to the council or councils referred to in subsection (2) above.
- (4) References in this Part of this Act to a composite authority are references to a controlling authority consisting of two or more such councils as are referred to in subsection (2) above, and the councils concerned are referred to as the component councils of that authority.
- (5) For the purposes of this Part of this Act a public transport company is an associated company—
- (a) in relation to a Passenger Transport Authority if that Authority or the Passenger Transport Executive for that Authority's area are its controlling authority;
 - (b) in relation to a Passenger Transport Executive if that Executive or the Passenger Transport Authority for that Executive's area are its controlling authority; and
 - (c) in relation to a district council in England and Wales or, in Scotland, a [F1 council (other than the council for Orkney Islands, Shetland Islands or Western Isles)] if that council are its controlling authority or one of the component councils of a composite authority who are its controlling authority.

Textual Amendments

F1 Words in s. 72(2)(a)(5)(c) substituted (S.) (1.4.1996) by [S.I. 1996/974](#), art. 2(1), [Sch. 1 Pt. I para. 7\(d\)](#)

73 Control over constitution and activities of public transport companies.

- (1) It shall be the duty of any public transport company's controlling authority to exercise their control over that company so as to ensure that the directors of the company include no more than the permitted maximum number of persons who are not full-time employees of the company.
- (2) Following the transfer to a public transport company of its initial undertaking, it shall be the duty of that company's controlling authority to exercise their control over that company so as to ensure that the directors of the company include not less than the required minimum number of persons who are full-time employees of the company holding positions of responsibility for the management of the company's business or any part of it.

The reference above in this subsection to the transfer to a public transport company of its initial undertaking is a reference, in relation to any such company, to the transfer or (if more than one) the first transfer of property, rights and liabilities to that company under section 59(7), 61(11), 68(7) or 70(2) of this Act.

- (3) Subject to subsection (5) below, it shall be the duty of any public transport company's controlling authority to exercise their control over the company so as to ensure that the company—

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- (a) does not engage in activities in which the controlling authority have no power to engage or permit any body corporate which is its subsidiary to engage in any such activities;
 - (b) does not—
 - (i) borrow money from any person other than the controlling authority; or
 - (ii) permit any body corporate which is its subsidiary to borrow money from any person other than the company, any other subsidiary of the company, or the controlling authority;with the exception in each case of borrowing by way of temporary loan or overdraft; and
 - (c) does not—
 - (i) raise money by the issue of shares or stock to any person other than the controlling authority; or
 - (ii) permit any body corporate which is its subsidiary to raise money by the issue of shares or stock to any person other than the company.
- (4) Where a public transport company's controlling authority are a composite authority, the duties imposed by the preceding provisions of this section are joint duties of both or all of the component councils of that authority; and subsection (3) above shall apply in any such case as if—
- (a) paragraph (a) referred to activities in which none of the component councils have power to engage; and
 - (b) references in paragraphs (b) and (c) to the controlling authority were references to the component councils.
- (5) Subsection (3)(a) above shall not apply—
- (a) in the case of a public transport company whose controlling authority are the Passenger Transport Authority for any passenger transport area, in relation to activities within the powers of the Executive for that area or activities which were formerly within those powers but have ceased to be so by virtue of any order made under section 60 of this Act;
 - (b) in the case of a public transport company within section 72(1)(c) of this Act, in relation to activities which were formerly within the powers of the council who formed or of any council who participated in forming that company, but have ceased to be so by virtue of section 66(1) of this Act.
- (6) The Secretary of State may by order prescribe—
- (a) the permitted maximum number for the purposes of subsection (1) above; and
 - (b) the required minimum number for the purposes of subsection (2) above.

74 **Disabilities of directors of public transport companies.** **E**

- (1) A director of a public transport company who is paid for acting as such or is an employee of the public transport company or a subsidiary of the public transport company shall be disqualified for being elected or being a member—
- (a) of any council who are that company's controlling authority; or
 - (b) where that company's controlling authority are a composite authority, of any of the component councils.

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- (2) Where a public transport company's controlling authority are a Passenger Transport Authority for a passenger transport area in England and Wales, a director of that company who is paid for acting as such or is an employee of that company or a subsidiary of that company shall be disqualified for being appointed or being a member of that Passenger Transport Authority.
- (3) Subject to the following provisions of this section, if a director of a public transport company is a member of any such council as is mentioned in subsection (1)(a) or (b) above or of any such Passenger Transport Authority as is mentioned in subsection (2) above he shall not at any meeting of that council or Authority—
- (a) take part in the consideration or discussion of any contract or proposed contract with, or any other matter relating to the activities of, the public transport company or a subsidiary of that company; or
 - (b) vote on any question with respect to any such contract, proposed contract or other matter.
- [^{F2}(3A) Subject to the following provisions of this section, where a director of a public transport company is a member of the executive of any such council as is mentioned in subsection (1)(a) or (b) above which are operating executive arrangements under Part II of the Local Government Act 2000, he shall not, in the course of the discharge of any function that is the responsibility of the executive, take any action in the consideration, or the making of any decision with respect to any contract or proposed contract with, or any other matter relating to the activities of, the public transport company or a subsidiary of that company.
- (3B) Subsection (3) or (3A) above shall not prohibit a person from taking part in the consideration or discussion of, or from voting on any question with respect to, a local transport plan or bus strategy.]
- [^{F3}(4) The Secretary of State may grant a written dispensation from subsection (3) or (3A) above in the case of any individual member, except that no such dispensation may be granted in the case of a member of a council's executive acting alone.]
- (5) Any such dispensation—
- (a) may extend both to the consideration or discussion of any such contract, proposed contract or other matter and to voting with respect to it, or to either alone;
 - (b) may relate to contracts, proposed contracts or other matters of all descriptions or of any particular description specified in the dispensation; and
 - (c) may be withdrawn or varied at any time by a notice in writing given by the Secretary of State to the member in question.
- [^{F4}(6) The Secretary of State may confer exemptions from subsection (3) or (3A) above either generally or in the case of any class or description of members except that no such exemption may be granted in the case of a member of a council's executive acting alone; and—
- (a) subsection (5)(a) and (b) above shall apply in relation to any such exemption as they apply in relation to any dispensation that may be granted under subsection (4) above; and
 - (b) any such exemption may be withdrawn or varied at any time by the Secretary of State.]

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- (7) If any person fails to comply with subsection (3) [^{F5}or (3A)] above he shall for each offence be liable on summary conviction to a fine not exceeding level 4 on the standard scale, unless he proves that he did not know that a contract or proposed contract with, or any other matter relating to the activities of, the company concerned was the subject of consideration at the meeting in question.
- (8) A prosecution for an offence under this section shall not, in England and Wales, be instituted except by or on behalf of the Director of Public Prosecutions.
- (9) A council who are a public transport company's controlling authority or one of the component councils of such an authority, and any Passenger Transport Authority for a passenger transport area in England and Wales who are a public transport company's controlling authority, may by standing orders provide for the exclusion of a member of that council or authority who is a director of that company from a meeting of that council or Authority while any contract or proposed contract with, or any other matter relating to the activities of, the public transport company or a subsidiary of that company is under consideration.
- (10) Subsections (3) and (9) above shall apply as respects members of—
- (a) a committee of any such council or Passenger Transport Authority as is mentioned in subsection (9) above; or
 - (b) a joint committee of two or more local authorities one or more of whom is such a council or Passenger Transport Authority;(including in either case a sub-committee), as they apply in respect of members of that council or Authority, but with the substitution of references to meetings of any such committee for references to meetings of that council or Authority.
- (11) In subsection (10)(b) above, “local authority”—
- (a) as respects England and Wales, has the same meaning as in the 1972 Act, except that it includes also a metropolitan county passenger transport authority; and
 - (b) as respects Scotland, has the same meaning as in the ^{M1}Local Government (Scotland) Act 1973.
- (12) For the purposes of section 94 of the 1972 Act or section 38 of the Local Government (Scotland) Act 1973 (disability of members of authorities for voting on account of interest in contracts, etc.) a member of any such council or Passenger Transport Authority as is mentioned in subsection (9) above who is a director of the public transport company in question shall not be treated as having a pecuniary interest in any contract or proposed contract with, or in any other matter relating to the activities of, the public transport company or a subsidiary of that company by reason only of any interest of his in that company or in a subsidiary of that company.
- (13) The provisions of this section shall apply in relation to a director of a subsidiary of a public transport company as they apply in relation to a director of such a company.

Extent Information

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

Textual Amendments

- F2** S. 74(3A)(3B) substituted (E.) (11.7.2001) s. 74(3A) by S.I. 2001/2237, arts. 1, 2, 13(a)

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- F3** S. 74(4) substituted (E.) (11.7.2001) by S.I. 2001/2237, **arts. 1, 2, 13(b)**
F4 S. 74(6) substituted (E.) (11.7.2001) by S.I. 2001/2237, **arts. 1, 2, 13(c)**
F5 WOrdS in s. 74(7) inserted (E.) (11.7.2001) by S.I. 2001/2237, **arts. 1, 2, 13(d)**

Modifications etc. (not altering text)

- C2** S. 74 applied (with modifications) (E.W.) (1.2.2005) by **The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157)**, art. 7(2)(b), **Sch. 2 Pt. 2 para. 2** (with art. 7(4))

Marginal Citations

- M1** 1973 c. 65

74 Disabilities of directors of public transport companies. S

- (1) A director of a public transport company who is paid for acting as such or is an employee of the public transport company or a subsidiary of the public transport company shall be disqualified for being elected or being a member—
 - (a) of any council who are that company's controlling authority; or
 - (b) where that company's controlling authority are a composite authority, of any of the component councils.
- (2) Where a public transport company's controlling authority are a Passenger Transport Authority for a passenger transport area in England and Wales, a director of that company who is paid for acting as such or is an employee of that company or a subsidiary of that company shall be disqualified for being appointed or being a member of that Passenger Transport Authority.
- (3) Subject to the following provisions of this section, if a director of a public transport company is a member of any such council as is mentioned in subsection (1)(a) or (b) above or of any such Passenger Transport Authority as is mentioned in subsection (2) above he shall not at any meeting of that council or Authority—
 - (a) take part in the consideration or discussion of any contract or proposed contract with, or any other matter relating to the activities of, the public transport company or a subsidiary of that company; or
 - (b) vote on any question with respect to any such contract, proposed contract or other matter.
- (4) The Secretary of State may grant a written dispensation from subsection (3) above in the case of any individual member.
- (5) Any such dispensation—
 - (a) may extend both to the consideration or discussion of any such contract, proposed contract or other matter and to voting with respect to it, or to either alone;
 - (b) may relate to contracts, proposed contracts or other matters of all descriptions or of any particular description specified in the dispensation; and
 - (c) may be withdrawn or varied at any time by a notice in writing given by the Secretary of State to the member in question.
- (6) The Secretary of State may confer exemptions from subsection (3) above either generally or in the case of any class or description of members; and—

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- (a) subsection (5)(a) and (b) above shall apply in relation to any such exemption as they apply in relation to any dispensation that may be granted under subsection (4) above; and
 - (b) any such exemption may be withdrawn or varied at any time by the Secretary of State.
- (7) If any person fails to comply with subsection (3) above he shall for each offence be liable on summary conviction to a fine not exceeding level 4 on the standard scale, unless he proves that he did not know that a contract or proposed contract with, or any other matter relating to the activities of, the company concerned was the subject of consideration at the meeting in question.
- (8) A prosecution for an offence under this section shall not, in England and Wales, be instituted except by or on behalf of the Director of Public Prosecutions.
- (9) A council who are a public transport company's controlling authority or one of the component councils of such an authority, and any Passenger Transport Authority for a passenger transport area in England and Wales who are a public transport company's controlling authority, may by standing orders provide for the exclusion of a member of that council or authority who is a director of that company from a meeting of that council or Authority while any contract or proposed contract with, or any other matter relating to the activities of, the public transport company or a subsidiary of that company is under consideration.
- (10) Subsections (3) and (9) above shall apply as respects members of—
 - (a) a committee of any such council or Passenger Transport Authority as is mentioned in subsection (9) above; or
 - (b) a joint committee of two or more local authorities one or more of whom is such a council or Passenger Transport Authority; (including in either case a sub-committee), as they apply in respect of members of that council or Authority, but with the substitution of references to meetings of any such committee for references to meetings of that council or Authority.
- (11) In subsection (10)(b) above, "local authority"—
 - (a) as respects England and Wales, has the same meaning as in the 1972 Act, except that it includes also a metropolitan county passenger transport authority; and
 - (b) as respects Scotland, has the same meaning as in the ^{M3}Local Government (Scotland) Act 1973.
- (12) For the purposes of section 94 of the 1972 Act or section 38 of the Local Government (Scotland) Act 1973 (disability of members of authorities for voting on account of interest in contracts, etc.) a member of any such council or Passenger Transport Authority as is mentioned in subsection (9) above who is a director of the public transport company in question shall not be treated as having a pecuniary interest in any contract or proposed contract with, or in any other matter relating to the activities of, the public transport company or a subsidiary of that company by reason only of any interest of his in that company or in a subsidiary of that company.
- (13) The provisions of this section shall apply in relation to a director of a subsidiary of a public transport company as they apply in relation to a director of such a company.

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Extent Information

- E2** This version of this provision extends to Scotland only; separate versions have been created for England and Wales

Marginal Citations

- M3** 1973 c. 65

75 Powers of investment and disposal in relation to public transport companies.

- (1) Without prejudice to the powers of a Passenger Transport Executive, a Passenger Transport Authority [^{F6}, a district council or, in Scotland, a council (other than the council for Orkney Islands, Shetland Islands or Western Isles)]—
- (a) to subscribe for shares on formation of a company formed by them (whether alone or jointly with any other council) in pursuance of any provision of this Part of this Act; or
 - (b) to acquire any shares in or other securities of a company so formed by way of consideration for any transfer of property, rights and liabilities to that company required or authorised under any such provision;
- any such Authority or council shall have power at any time to subscribe for, take up or acquire (as the case may be) any shares in or other securities of any associated company.
- (2) Any such Authority or council shall each have power to provide for the disposal, in such manner as they think fit, of any such shares or other securities.
- (3) The exercise of the power under subsection (1) or (2) above requires the consent of the Secretary of State; and a public transport company's controlling authority may not, without that consent, in exercise of their control over that company permit—
- (a) the disposal by that company of the whole of that company's undertaking;
 - (b) any disposal by that company of any shares in or other securities of a body corporate which is that company's subsidiary; or
 - (c) any disposal by that company of any part of that company's undertaking, or of any assets of that company (other than shares or securities within paragraph (b) above) which appears to that authority (or, in the case of a composite authority, to both or all of the component councils) to affect materially the structure of the company's business.
- (4) A Passenger Transport Authority [^{F6}, a district council or, in Scotland, a council (other than the council for Orkney Islands, Shetland Islands or Western Isles)] who are a public transport company's controlling authority or (as the case may be) both or all of the component councils of a composite authority who are a public transport company's controlling authority, may, in exercising their power under subsection (2) above in relation to the disposal of any shares in or other securities of that company, provide for an employees' share scheme to be established in respect of that company; and any such scheme may provide for the transfer of shares without consideration.

Textual Amendments

- F6** Words in s. 75(1)(4) substituted (S.) (1.4.1996) by *S.I. 1996/974, art. 2(1), Sch. 1 Pt. I para. 7(e)*

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76 Audit of accounts of public transport companies.

- (1) It shall be the duty of any public transport company's controlling authority to exercise their control over that company so as to ensure that the company appoints only auditors who, in addition to being [^{F7}eligible for such appointment in accordance with Part II of the Companies Act 1989], are approved for appointment as auditors of that company by the Audit Commission for Local Authorities [^{F8} and the National Health Service in England] .
- (2) Where a public transport company's controlling authority are a composite authority, the duty imposed by subsection (1) above is a joint duty of both or all of the component councils of that authority.
- (3) This section shall not apply to Scotland.

Textual Amendments

- F7** Words in s. 76(1) substituted (1.10.1991) by [S.I. 1991/1997, reg. 2, Sch. para.57](#) (with [reg. 4](#))
- F8** Words in s. 76(1) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 9 para. 2\(2\)\(a\)](#); [S.I. 2008/172, art. 4\(a\)](#)

77 Local authority financial controls in Scotland.

- (1) Any liability to meet capital expenses incurred by a public transport company shall be treated for the purposes of section 94 of the ^{M2}Local Government (Scotland) Act 1973 (consent of Secretary of State required for the incurring of liability to meet capital expenses) as a liability to meet capital expenses incurred by that company's controlling authority.
- (2) Subject to the following provisions of this section, it shall be the duty of any public transport company's controlling authority to exercise their control over that company so as to ensure that the company shall appoint only auditors who, in addition to being [^{F9}eligible for such appointment in accordance with Part II of the Companies Act 1989], are approved for appointment as auditors of the company by the Commission for Local Authority Accounts in Scotland.
- (3) Where a public transport company's controlling authority are a Passenger Transport Executive, the reference in subsection (1) above to the controlling authority shall be read, in relation to that company, as a reference to the Passenger Transport Authority for that Executive's area.
- (4) References in this section to a public transport company include references to any subsidiary of such a company.
- (5) This section applies to Scotland only.

Textual Amendments

- F9** Words in s. 77(2) substituted (1.10.1991) by [S.I. 1991/1997, reg. 2, Sch. para.57](#) (with [reg. 4](#))

Marginal Citations

- M2** 1973 c. 65.

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78 Provision of services for public transport companies.

- (1) A Passenger Transport Executive and a district council or, in Scotland, [^{F10}council (other than the council for Orkney Islands, Shetland Islands or Western Isles)]a shall each have power to enter into an agreement with any associated company, or with any subsidiary of an associated company, for the provision by that Executive or council for that company or (as the case may be) for that subsidiary of any administrative, professional or technical services.
- (2) Any agreement under this section shall include provision for payment of proper commercial charges in respect of services to be provided under the agreement.

Textual Amendments

F10 Words in s. 78(1) substituted (S.) (1.4.1996) by S.I. 1996/974, art. 2(1), Sch. 1 Pt. I para. 7(d)

79 Financial backing for establishment and operations of public transport companies.

- (1) A Passenger Transport Authority and a district council or, in Scotland, a [^{F11}council (other than the council for Orkney Islands, Shetland Islands or Western Isles)] shall each have power to make loans to any associated company, or to guarantee loans made to any associated company by any other person, for the provision of working capital.
- (2) The reference in subsection (1) above to guaranteeing loans is a reference to guaranteeing the repayment of the principal of, the payment of interest on, and the discharge of any other financial obligation in connection with, any such loans.
- (3) The exercise of the power under subsection (1) above, otherwise than in pursuance of any provision made by any scheme or order under this Part of this Act in connection with any transfer of property, rights and liabilities to the company in question for which that scheme or order provides, requires the consent of the Secretary of State.
- (4) A Passenger Transport Authority and a district council or, in Scotland, a [^{F11}council (other than the council for Orkney Islands, Shetland Islands or Western Isles)] shall each have power to make loans—
 - (a) to any associated company; or
 - (b) to any subsidiary of an associated company;
 for the purpose of meeting any expenses incurred or to be incurred by that company or subsidiary in connection with the provision or improvement of assets in connection with its business.
- (5) Any loan under subsection (4) above must be made on terms, both as to rates of interest and otherwise, no more favourable than the terms on which the authority making the loan would themselves be able to borrow at the time when the loan is made.
- (6) A Passenger Transport Authority and a district council or, in Scotland, a [^{F11}council (other than the council for Orkney Islands, Shetland Islands or Western Isles)] shall each have power to give any guarantees and do any other things which appear to that Authority or (as the case may be) to that council to be necessary or expedient for the purpose of or in connection with—
 - (a) any disposal authorised by section 75(2) of this Act; or

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- (b) any disposal by any associated company of the whole or any part of that company's undertaking, or of any property, rights or liabilities of that company.
- (7) Where any such disposal requires or (as the case may be) may not be permitted without the consent of the Secretary of State, the power under subsection (6) above may not be exercised in relation to that disposal without the consent of the Secretary of State.
- (8) Subject to subsection (9) below, a Passenger Transport Authority and a district council or, in Scotland, a [^{F11}council (other than the council for Orkney Islands, Shetland Islands or Western Isles)] shall each have power, with the consent of the Secretary of State, to provide financial assistance by way of grants, loans or guarantees for any associated company which has incurred losses affecting the viability of its business.
- (9) The power under subsection (8) above may only be exercised for the purpose of any plan approved by the Secretary of State for improving the efficiency of the company's operations and its commercial performance generally so as to enable it to carry on business without further assistance from the Authority or council concerned or from any other council who are a member of the company.
- (10) A Passenger Transport Authority and a district council or, in Scotland, a [^{F11}council (other than the council for Orkney Islands, Shetland Islands or Western Isles)] shall each have power, where on the winding up of any associated company the assets of the company are not sufficient to meet the company's liabilities, to make to the creditors of the company such payments as may be necessary to meet the balance of those liabilities (and may accordingly give to persons dealing or proposing to deal with any such company such guarantees with respect to the exercise of their power under this subsection in relation to that company as they think fit).

Textual Amendments

- F11** Words in s. 79(1)(4)(6)(8)(10) substituted (S.) (1.4.1996) by S.I. 1996/974, art. 2(1), Sch. 1 Pt. 1 para. 7(d)

Status:

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