



# Transport Act 1985

## 1985 CHAPTER 67

### PART IV

#### LOCAL PASSENGER TRANSPORT SERVICES

##### *Passenger transport in other areas*

#### **63 Functions of local councils with respect to passenger transport in areas other than passenger transport areas. E+W**

- (1) In each non-metropolitan county of England and Wales it shall be the duty of the county council—
  - (a) to secure the provision of such public passenger transport services as the council consider it appropriate to secure to meet any public transport requirements within the county which would not in their view be met apart from any action taken by them for that purpose; <sup>F1</sup>and
  - (b) to formulate from time to time general policies as to the descriptions of services they propose to secure under paragraph (a) above.]
- (2) It shall be the duty of a <sup>F2</sup> . . . council in Scotland, in relation to any part of their area which is not a passenger transport area—
  - (a) to secure the provision of such public passenger transport services as the council consider it appropriate to secure to meet any public transport requirements within their area which would not in their view be met apart from any action taken by them for that purpose; and
  - (b) to formulate from time to time general policies as to the descriptions of services they propose to secure under paragraph (a) above.
- (3) In formulating policies under subsection <sup>F3</sup>(1)(b) or](2)(b) above with respect to the descriptions of services they propose to secure under subsection <sup>F3</sup>(1)(a) or](2)(a) above, a council shall have regard to any measures they are required or propose to take for meeting any transport requirements in exercise or performance of—

*Status: Point in time view as at 11/07/2001.*

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- (a) any of their functions [<sup>F4</sup>as a local education authority or (as the case may be)]as an education authority; or
  - (b) any of their [<sup>F5</sup>social services or (as the case may be)]social work functions.
- (4) A non-metropolitan district council in England <sup>F6</sup>. . . shall have power to secure the provision of such public passenger transport services as they consider it appropriate to secure to meet any public transport requirements within their area which would not in their view be met apart from any action taken by them for that purpose.
- (5) For the purpose of securing the provision of any service under subsection (1)(a) or (2) (a) or (as the case may be) under subsection (4) above any council shall have power to enter into an agreement providing for service subsidies; 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 sections 89 to 92 of this Act.
- (6) A non-metropolitan county council in England and Wales or, in Scotland, a <sup>F2</sup>. . . council shall have power to take any measures that appear to them to be appropriate for the purpose of or in connection with promoting, so far as relates to their 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 council 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).
- (7) It shall be the duty of a county council or [<sup>F7</sup>, in Scotland , a] council, in exercising their power under subsection (6) above, [<sup>F8</sup>to have regard to a combination of economy, efficiency and effectiveness.]
- (8) It shall be the duty of any council, 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>F9</sup>and to the appropriate bus strategy.].
- [<sup>F10</sup>(8A) In subsection (8) “the appropriate bus strategy” means—
- (a) in the case of a council which is a local transport authority (within the meaning of section 108(4) of the Transport Act 2000), their bus strategy;
  - (b) in the case of a district council which is not such an authority, the bus strategy of the council for the county in which the district is situated.]
- (9) References in subsection (6) above to subsidised services are references to services provided under an agreement providing for service subsidies entered into—
- (a) by the council in question or by any other county or district council or [<sup>F11</sup>in Scotland] council under this section; or
  - (b) by the Passenger Transport Executive for any passenger transport area under section 9A(4) of the 1968 Act.
- (10) In this Act—
- (a) “public passenger transport services” means all those services on which members of the public rely for getting from place to place, when not relying on private facilities of their own, including school transport but not—

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- (i) services provided under permits under section 19 of this Act, other than services provided wholly or mainly to meet the needs of members of the public who are elderly or disabled; or
- (ii) excursions or tours; and
- (b) references, in relation to any Passenger Transport Executive, non-metropolitan county or district council or [<sup>F11</sup>in Scotland] council, to agreements providing for service subsidies are references to agreements under which any person undertakes to provide a public passenger transport service of any description on terms which include provision for the making of payments to that person by that Executive or council.

#### Extent Information

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

#### Textual Amendments

- F1** S. 63(1)(b) and the preceding word “and” repealed (E.W.) (1.2.2001 and otherwise*prosp.*) by 2000 c. 38, ss. 161, 274, 275, Sch. 11 para. 11(2), **Sch. 31 Pt. II**; S.I. 2001/57, art. 3(2), Sch. 3 Pt. I (subject to savings in **Sch. 3 Pt. II** (as amended by S.I. 2001/115, **art. 3**))
- F2** Words in s. 63(2)(6) repealed (1.4.1996) by S.I. 1996/974, art. 2(2), **Sch. 2**
- F3** Words in s. 63(3) repealed (E.W.) (1.2.2001 for E. and otherwise*prosp.*) by 2000 c. 38, ss. 161, 274, 275, Sch. 11 para. 11(3)(a), **Sch. 31 Pt. II**; S.I. 2001/57, art. 3(2), Sch. 3 Pt. I (subject to savings in **Sch. 3 Pt. II** (as amended by S.I. 2001/115, **art. 3**))
- F4** Words in s. 63(3)(a) repealed (E.W.) (1.2.2001 for E. and otherwise*prosp.*) by 2000 c. 38, ss. 161, 274, 275, Sch. 11 para. 11(3)(b), **Sch. 31 Pt. II**; S.I. 2001/57, art. 3(2), Sch. 3 Pt. I (subject to savings in **Sch. 3 Pt. II** (as amended by S.I. 2001/115, **art. 3**))
- F5** Words in s. 63(3)(b) repealed (E.W.) (1.2.2001 for E. and otherwise*prosp.*) by 2000 c. 38, ss. 161, 274, 275, Sch. 11 para. 11(3)(c), **Sch. 31 Pt. II**; S.I. 2001/57, art. 3(2), Sch. 3 Pt. I (subject to savings in **Sch. 3 Pt. II** (as amended by S.I. 2001/115, **art. 3**))
- F6** Words in s. 63(4) repealed (1.4.1996) by 1994 c. 19, ss. 22(1), 66(8), Sch. 7 Pt. II para. 39(1), **Sch. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, arts. 3, 4, Sch. 1, **Sch. 2**
- F7** Words in s. 63(7) substituted (S.) (1.4.1996) by S.I. 1996/974, art. 2(1), **Sch. 1 Pt. 1 para. 7(b)**
- F8** Words in s. 63(7) substituted (E.W.) (1.2.2001 for E. and otherwise*prosp.*) by 2000 c. 38, ss. 161, 175, **Sch. 11 para. 11(4)**; S.I. 2001/57, art. 3(2), Sch. 3 Pt. I (subject to savings in **Sch. 3 Pt. II** (as amended by S.I. 2001/115, **art. 3**))
- F9** Words in s. 63(8) inserted (E.W.) (1.2.2001 for E. and otherwise*prosp.*) by 2000 c. 38, ss. 161, 275, **Sch. 11 para. 11(5)**; S.I. 2001/57, art. 3(2), Sch. 3 Pt. I (subject to savings in **Sch. 3 Pt. II** (as amended by S.I. 2001/115, **art. 3**))
- F10** S. 63(8A) inserted (E.W.) (1.2.2001 for E. and otherwise*prosp.*) by 2000 c. 38, ss. 161, 275, **Sch. 11 para. 11(6)**; S.I. 2001/57, art. 3(2), Sch. 3 Pt. I (subject to savings in **Sch. 3 Pt. II** (as amended by S.I. 2001/115, **art. 3**))
- F11** Words in s. 63(9)(a)(10)(b) substituted (S.) (1.4.1996) by S.I. 1996/974, art. 2(1), **Sch. 1 Pt. 1 para. 7(c)**

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

- C2** S. 63(7) excluded (28.7.1998) by 1998 c. iii, s. 1, **Sch. s. 51(1)** of Order  
S. 63(7) excluded (24.7.2001) by S.I. 2001/3627, **art. 50**

*Status: Point in time view as at 11/07/2001.*

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### **63 Functions of local councils with respect to passenger transport in areas other than passenger transport areas. S**

- (1) In each non-metropolitan county of England and Wales it shall be the duty of the county council—
- (a) to secure the provision of such public passenger transport services as the council consider it appropriate to secure to meet any public transport requirements within the county which would not in their view be met apart from any action taken by them for that purpose; and
  - (b) to formulate from time to time general policies as to the descriptions of services they propose to secure under paragraph (a) above.
- (2) It shall be the duty of a <sup>F19</sup> . . . council in Scotland, in relation to any part of their area which is not a passenger transport area—
- (a) to secure the provision of such public passenger transport services as the council consider it appropriate to secure to meet any public transport requirements within their area which would not in their view be met apart from any action taken by them for that purpose; and
  - (b) to formulate from time to time general policies as to the descriptions of services they propose to secure under paragraph (a) above.
- <sup>F20</sup>(3) . . . . .
- (4) A non-metropolitan district council in England <sup>F21</sup> . . . shall have power to secure the provision of such public passenger transport services as they consider it appropriate to secure to meet any public transport requirements within their area which would not in their view be met apart from any action taken by them for that purpose.
- (5) For the purpose of securing the provision of any service under subsection (1)(a) or (2) (a) or (as the case may be) under subsection (4) above any council shall have power to enter into an agreement providing for service subsidies; but their power to do so—
- (a) shall be exercisable only where the service in question [<sup>F22</sup>—(i)] would not be provided [<sup>F23</sup>; or
    - (ii) would not be provided to the standard specified in a quality partnership scheme made under section 6 of the Transport (Scotland) Act 2001 (asp 2),]
 without subsidy; and
  - (b) is subject to sections 89 to 92 of this Act.
- (6) A non-metropolitan county council in England and Wales or, in Scotland, a <sup>F19</sup> . . . council shall have power to take any measures that appear to them to be appropriate for the purpose of or in connection with promoting, so far as relates to their 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 council 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).
- (7) It shall be the duty of a county council or [<sup>F24</sup>, in Scotland , a] council, in exercising their power under subsection (6) above, so to conduct themselves as not to inhibit

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competition between persons providing or seeking to provide public passenger transport services in their area.

- (8) It shall be the duty of any council, 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.
- (9) References in subsection (6) above to subsidised services are references to services provided under an agreement providing for service subsidies entered into—
- (a) by the council in question or by any other county or district council or [<sup>F25</sup>in Scotland] council under this section; or
  - (b) by the Passenger Transport Executive for any passenger transport area under section 9A(4) of the 1968 Act.
- (10) In this Act—
- (a) “public passenger transport services” means all those services on which members of the public rely for getting from place to place, when not relying on private facilities of their own, including school transport but not—
    - (i) services provided under permits under section 19 of this Act, other than services provided wholly or mainly to meet the needs of members of the public who are elderly or disabled; or
    - (ii) excursions or tours; and
  - (b) references, in relation to any Passenger Transport Executive, non-metropolitan county or district council or [<sup>F25</sup>in Scotland] council, to agreements providing for service subsidies are references to agreements under which any person undertakes to provide a public passenger transport service of any description on terms which include provision for the making of payments to that person by that Executive or council.

#### Extent Information

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

#### Textual Amendments

- F19** Words in s. 63(2)(6) repealed (1.4.1996) by S.I. 1996/974, art. 2(2), **Sch. 2**
- F20** S. 63(3) repealed (S.) (1.4.2001) by 2001 asp 2, s. 82, **Sch. 2 para. 4** (with s. 66); S.S.I. 2001/132, art. 2(2), **Sch. Pt. I**
- F21** Words in s. 63(4) repealed (1.4.1996) by 1994 c. 19, ss. 22(1), 66(8), Sch. 7 Pt. II para. 39(1), **Sch 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, arts. 3, 4, Sch. 1, **Sch. 2**
- F22** S. 63(5)(a): “-(i)” inserted (S.) (1.7.2001) by asp 2, s. 12(a) (with s. 66); S.S.I. 2001/132, art. 2(3), **Sch. Pt. II**
- F23** S. 63(5)(b)(ii) and the preceding word “;or” inserted (S.) (1.7.2001) by 2001 asp 2, s. 12(b) (with s. 66); S.S.I. 2001/132, art. 2(3), **Sch. Pt. II**
- F24** Words in s. 63(7) substituted (S.) (1.4.1996) by S.I. 1996/974, art. 2(1), **Sch. 1 Pt. 1 para. 7(b)**
- F25** Words in s. 63(9)(a)(10)(b) substituted (S.) (1.4.1996) by S.I. 1996/974, art. 2(1), **Sch. 1 Pt. 1 para. 7(c)**

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

- C4** S. 63(7) excluded (28.7.1998) by 1998 c. iii, s. 1, **Sch. s. 51(1)** of Order  
S. 63(7) excluded (24.7.2001) by S.I. 2001/3627, **art. 50**

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

- (1) When considering from time to time the formulation of policies for the purposes of section <sup>F12</sup>63(2)(b) of this Act, any council to whom <sup>F13</sup>that provision applies shall consult—
- (a) with every Passenger Transport Authority, county council or regional or islands 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 council to be representative of such persons;
- <sup>F14</sup>and where the council's area is in England <sup>F15</sup>. . . the council shall also consult with the councils of districts comprised in their area].
- (2) As soon as practicable after any occasion when they formulate new or altered policies for those purposes, any such council shall publish a statement of all policies so formulated by them on that or any previous occasion which they propose for the time being to follow in the performance of their duty to secure services <sup>F16</sup>under section 63(1)(a) or (as the case may be) under section 63(2)(a).
- (3) When any such council 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 council 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

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

### Textual Amendments

- F12** Words in s. 64(1) substituted (E.W.) (1.2.2001 for E. and otherwise *prosp.*) by 2000 c. 38, ss. 161, 275, **Sch. 11 para. 12(2)(a)**; S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to transitional provisions and saving in **Sch. 2 Pt. II**)
- F13** Words in s. 64(1) substituted (E.W.) (1.2.2001 for E. and otherwise *prosp.*) by 2000 c. 38, ss. 161, 275, **Sch. 11 para. 12(2)(b)**; S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to savings in **Sch. 3 Pt. II** (as amended by S.I. 2001/115, art. 3))
- F14** S. 64(1): the words following paragraph (b) repealed (E.W.) (1.2.2001 for E. and otherwise *prosp.*) by 2000 c. 38, ss. 161, 274, 275, **Sch. 11 para. 12(2)(c)**, **Sch. 31 Pt. II**; S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to savings in **Sch. 3 Pt. II** (as amended by S.I. 2001/115, art. 3))
- F15** Words in s. 64(1) repealed (1.4.1996) by 1994 c. 19, ss. 22(1), 66(8), **Sch. 7 Pt. II para. 39(2)**, **Sch 18** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, arts. 3, 4, **Sch. 1, Sch. 2**

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**F16** Words in s. 64(2) repealed (E.W.) (1.2.2001 for E. and otherwise *prosp.*) by 2000 c. 38, ss. 161, 274, 275, Sch. 11 para. 12(3), **Sch. 31 Pt. II**; S.I. 2001/57, art. 3(2), Sch. 3 Pt. I (subject to savings in **Sch. 3 Pt. II** (as amended by S.I. 2001/115, art. 3))

## 64 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 63(1)(b) or (2)(b) of this Act, any council to whom either of those provisions applies shall consult—
- (a) with every Passenger Transport Authority, county council or [<sup>F26</sup>in Scotland] 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 council to be representative of such persons;
- and where the council's area is in England <sup>F27</sup>. . . the council shall also consult with the councils of districts comprised in their area.
- (2) As soon as practicable after any occasion when they formulate new or altered policies for those purposes, any such council shall publish a statement of all policies so formulated by them on that or any previous occasion which they propose for the time being to follow in the performance of their duty to secure services under section 63(1) (a) or (as the case may be) under section 63(2)(a).
- (3) When any such council 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 council 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

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

### Textual Amendments

**F26** Words in s. 64(1)(a) substituted (S.) (1.4.1996) by S.I. 1996/974, art. 2(1), **Sch. 1 Pt. 1 para. 7(c)**

**F27** Words in s. 64(1) repealed (1.4.1996) by 1994 c. 19, ss. 22(1), 66(8), Sch. 7 Pt. II para. 39(2), **Sch 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, arts. 3, 4, Sch. 1, **Sch. 2**

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## 65 Co-operation between certain councils and London Regional Transport.

- (1) Subject to the following provisions of this section, any non-metropolitan county or district council in England and Wales and London Regional Transport shall each have power to enter into any agreement or arrangements with the other under which that council or (as the case may be) London Regional Transport undertake to contribute towards any expenditure incurred by the other party to the agreement or arrangements in making payments to a person providing a public passenger transport service under any agreement entered into by that other party in exercise of any power that other party may have to secure the provision of that service.
- (2) The agreement under which the payments are made must have been entered into in pursuance of the agreement or arrangements between the council in question and London Regional Transport.
- (3) The power of London Regional Transport under section 3(2) of the <sup>M1</sup>London Regional Transport Act 1984 (contracting-out powers) to enter into and carry out agreements with any person for the provision by that person of any public passenger transport service, if exercised in pursuance of any agreement or arrangements entered into under this section, shall be limited to cases where the service in question would not be provided without subsidy and shall also be subject to sections 89 to 92 of this Act.
- (4) Section 28 of the London Regional Transport Act 1984 (agreements with respect to the provision by London Regional Transport of extra services and facilities financed by certain other authorities) shall cease to apply in relation to agreements with district councils, and accordingly—
  - (a) in subsection (1) of that section—
    - (i) the word “or” shall be inserted at the end of paragraph (b); and
    - (ii) paragraph (d) and the word “or” immediately preceding it shall be omitted; and
  - (b) in subsection (2) of that section—
    - (i) the word “and” shall be inserted after the word “borough”; and
    - (ii) the words “and the council of any district” shall be omitted.
- (5) Subsection (3) above is without prejudice to section 6 of the <sup>M2</sup>London Regional Transport Act 1984 (obligation of London Regional Transport to invite tenders for carrying on activities in certain circumstances).

### Marginal Citations

- M1** 1984 c. 32.  
**M2** 1984 c. 32.

## 66 Exclusion of powers of certain councils to run bus undertakings.

- (1) Subject to section 71 of this Act and subsection (2) below, but notwithstanding anything in any other statutory provision, a non-metropolitan district council in England [<sup>F17</sup>a county council or county borough council in Wales] or, in Scotland, a [<sup>F18</sup>council (other than the council for Orkney Islands, Shetland Islands or Western Isles)] shall not have power to provide a service for the carriage of passengers by road which requires a PSV operator’s licence.



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- (2) Subsection (1) above shall not have effect in relation to any council who, at the time when this section comes into force, are providing any such service until the end of such period as may be specified by order made by the Secretary of State.

References below in this Part of this Act to a council operating a bus undertaking are references to any council to whom this subsection applies.

- (3) Any order under subsection (2) above may apply to all councils within that subsection who are not for the time being exempt by virtue of section 71 of this Act from subsection (1) above, to any class of such councils, or to any such council specified in the order; and different periods may be specified by any such order in relation to different councils or classes of councils to whom it applies.
- (4) Any order under subsection (2) above shall, in relation to every period specified in the order for the purposes of that subsection (“the primary period”), specify also a period ending before the primary period as the period allowed to councils to whom the primary period applies for complying with such of the requirements of sections 67 to 69 of this Act as are applicable to them.
- (5) A period specified by virtue of subsection (4) above in an order under subsection (2) above is referred to in those sections, in relation to any council to whom it applies, as the council’s preparatory period.
- (6) Any order amending a previous order under subsection (2) above, in so far as it extends any period specified in the previous order for the purposes of that subsection, may be framed so as to have effect from a date earlier than the making of the order.
- (7) For the purposes of this Part of this Act—
- (a) a service for the carriage of passengers by road is a service which requires a PSV operator’s licence if vehicles used in providing the service are used in such circumstances that a PSV operator’s licence is required in respect of that use;
  - (b) any council who have made (whether alone or jointly with any other authority or authorities) arrangements under any enactment for the discharge by any other authority or person of that council’s functions with respect to the operation of any such service shall be taken to be providing that service at any time when it is being provided under those arrangements; and
  - (c) references, in relation to any council operating a bus undertaking, to the council’s bus undertaking are references (according to the context) to—
    - (i) all activities carried on, whether by the council themselves or by any other authority or person in pursuance of any such arrangements as are mentioned in paragraph (b) above or otherwise, in or for the purposes of the provision by the council of any such service; or
    - (ii) all property of the council used or appropriated for use and all rights and liabilities of the council subsisting for the purposes of any such activities.

#### Textual Amendments

**F17** Words in s. 66(1) substituted (1.4.1996) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. II para. 39(3)** (with ss. 54(5)(7), 55(5), **Sch. 17 para. 22(1), 23(2)**); S.I. 1996/396, art. 3, **Sch. 1**

**F18** Words in s. 66(1) substituted (S.) (1.4.1996) by S.I. 1996/974, art. 2(1), **Sch. 1 Pt. I para. 7(d)**

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

- C3** The period beginning with 6.1.1986 and ending with 25.10.1985 specified as the primary period for the purposes of subsection (2) of section 66 in relation to certain councils by virtue of [S.I. 1985/1902](#), arts. 2, 4, [Sch.](#)

**67 Formation of companies to run council bus undertakings.**

- (1) Where an order is made under section 66(2) of this Act, the council or (as the case may be) each of the councils to whom the order applies shall, before the end of that council's preparatory period, form (whether alone or jointly with any other council operating a bus undertaking) one or more companies for the purpose of carrying on—
  - (a) activities of any description included among the activities of the bus undertaking of that council or (as the case may be) of any of the councils concerned in the formation of the company or companies in question;
  - (b) activities of any other description included among the activities of any joint undertaking of which that council's bus undertaking, or (as the case may be) the bus undertaking of any council so concerned, forms part; and
  - (c) any other activities which appear to the council or (as the case may be) to both or all of the councils so concerned to be incidental to or connected with any activities within paragraph (a) or (b) above or to be capable of being conveniently carried on in association with any such activities.
- (2) Any company formed under this section shall be a company limited by shares registered under the <sup>M3</sup>Companies Act 1985.
- (3) Subject to subsections (4) and (5) below, a council's bus undertaking shall be regarded for the purposes of this Part of this Act as forming part of a joint undertaking if the services for the carriage of passengers by road provided in the course of the activities of the council's bus undertaking are wholly or mainly provided under any agreement for—
  - (a) the provision or operation of those services by a body acting on the joint behalf of that council and one or more other councils; or
  - (b) the operation of those services by any company operating those services in conjunction with services for the carriage of passengers by road provided by that company.
- (4) Subsection (3)(a) above only applies where the agreement provides for the distribution among the parties on its termination of—
  - (a) all assets, or the proceeds of all assets, used or appropriated for use for the purpose of providing services for the carriage of passengers by road under the agreement; or
  - (b) all such assets or proceeds excluding only land or the proceeds of disposal of land.
- (5) Subsection (3)(b) above only applies where—
  - (a) the agreement includes provision for securing that the parties on termination of the agreement hold shares of equal value in assets required to be brought into account on termination of the agreement; and
  - (b) those assets include all assets so used or appropriated for use.
- (6) References in this Part of this Act, in relation to a council whose bus undertaking forms part of a joint undertaking, to the joint undertaking are references to all activities

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carried on, or (according to the context) to all property used or appropriated for use and all rights and liabilities subsisting for the purposes of any activities carried on, in pursuance of the agreement by reference to which that council falls within subsection (3) above.

#### Marginal Citations

M3 1985 c. 6.

### 68 Schemes for transfer of individual council bus undertakings to companies formed under section 67.

- (1) Subject to subsection (2) below, a council to whom section 67(1) of this Act applies shall, before the end of that council's preparatory period, submit to the Secretary of State a scheme providing for the transfer to a company or companies formed by that council under that section of—
  - (a) such of the property, rights and liabilities of the council comprised in the council's bus undertaking; and
  - (b) such other property, rights and liabilities of the council;as it appears to the council to be appropriate to transfer to the company or companies in question.
- (2) This section does not apply to a council whose bus undertaking forms part of a joint undertaking, except where any of the activities of the council's bus undertaking ("the separate activities") are carried on by the council otherwise than in pursuance of any such agreement as is mentioned in section 67(3) of this Act; and in the latter case the reference in subsection (1)(a) above to property, rights and liabilities of the council shall be read as limited to property used or appropriated for use and rights and liabilities subsisting for the purposes of the separate activities.
- (3) Two or more councils to whom this section applies may submit a joint scheme for the purposes of subsection (1) above; and in any such case the scheme may provide for the transfer of any property, rights and liabilities within that subsection as it applies to any one of those councils to a company or companies formed under section 67 of this Act by any other of those councils.
- (4) In preparing a scheme for the purposes of subsection (1) above the council or councils concerned shall take into account any advice given by the Secretary of State as to the provisions he regards as appropriate for inclusion in the scheme (and in particular, but without prejudice to the generality of that, as to the description of property, rights and liabilities it is in his view appropriate to transfer to the company or companies in question).
- (5) A scheme under this section shall not come into force until it has been approved by the Secretary of State or until such date as the Secretary of State may, in giving his approval, specify; and the Secretary of State may approve a scheme either without modifications or with such modifications as, after consultation with the council or councils concerned, he thinks fit.
- (6) If the Secretary of State is not satisfied that a scheme submitted under subsection (1) above accords with any such advice given by him as is mentioned in subsection (4) above, or would do so with appropriate modifications, he may, after consultation with

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the council or councils concerned, instead of approving the scheme substitute for it a scheme of his own, to come into force on such date as may be specified in the scheme.

- (7) On the coming into force of a scheme under this section, the property, rights and liabilities affected by the scheme shall, subject to section 129 of this Act, be transferred and vest in accordance with the scheme.

## **69 Orders for transfer of joint undertakings to companies formed under section 67.**

- (1) This section applies to a council to whom section 67(1) of this Act applies whose bus undertaking forms part of a joint undertaking (referred to below in this section and in section 70 of this Act as a council participating in a joint undertaking).
- (2) Any council participating in a joint undertaking shall, before the end of that council's preparatory period, submit to the Secretary of State written proposals for the transfer to a company or companies formed by that council under section 67 of—
- (a) such of the property, rights and liabilities comprised in that council's share of the joint undertaking (whether or not then vested in that council); and
  - (b) such other property, rights and liabilities of the council;
- as it appears to the council to be appropriate to transfer to the company or companies in question.
- (3) In any case within section 67(3)(a) of this Act both or all the councils participating in the joint undertaking may submit joint proposals for the purposes of subsection (2) above; and in any such case the proposals—
- (a) may release to each council's share of the joint undertaking and (without prejudice to that) to all property, rights and liabilities of the body carrying on that undertaking; and
  - (b) may provide for the transfer of any property, rights and liabilities within subsection (2) above as it applies to each of those councils to a company or companies formed under section 67 of this Act by any one or more of those councils.
- (4) Any proposals submitted to the Secretary of State under this section must include proposals with respect to the terms on which the agreement under which the joint undertaking is carried on (referred to below in this section as the operating agreement) should be terminated.
- (5) Individual proposals submitted to the Secretary of State under this section by a single council participating in a joint undertaking must include proposals for the division of that undertaking between the parties to it and the determination of the property, rights and liabilities to be allocated to each as his share.
- (6) In preparing their proposals for the purposes of subsection (2) above the council or councils concerned shall take into account any advice given by the Secretary of State as to the provisions he regards as appropriate for inclusion in the proposals (and in particular, but without prejudice to the generality of that, as to the description of property, rights and liabilities it is in his view appropriate to transfer to the company or companies in question).
- (7) Where in relation to any joint undertaking the Secretary of State has received under this section proposals submitted to him (whether individually or jointly) by the council or (if more than one) by both or all of the councils participating in the undertaking, he shall, after considering those proposals and consulting the council or councils

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concerned, make an order in accordance with the following provisions of this section and section 70 of this Act.

- (8) Before making such an order in any case within section 67(3)(b) of this Act the Secretary of State shall—
- (a) give the company carrying on the joint undertaking an opportunity of making written representations with respect to any proposals submitted to the Secretary of State in relation to that undertaking by the council concerned; and
  - (b) consider any such representations made to him within such time as he may allow for the purpose.
- (9) An order made by the Secretary of State under this section with respect to any joint undertaking may make provision—
- (a) where joint proposals were submitted under subsection (3) above with respect to that undertaking, for the transfer in accordance with the proposals of—
    - (i) all property, rights and liabilities of the body carrying on that undertaking; and
    - (ii) such of the property, rights and liabilities of the councils participating in the joint undertaking as may be specified in the order;
  - (b) where individual proposals were submitted by any council participating in the joint undertaking, for the division of that undertaking between the parties to it and the determination of the property, rights and liabilities to be allocated to each as his share;
  - (c) in a case within paragraph (b) above, for the transfer in accordance with the proposals submitted by any such council of—
    - (i) such of the property, rights and liabilities comprised in that council's share of the joint undertaking as determined by or under the order (whether or not then vested in that council) as may be specified in the order; and
    - (ii) such other property, rights and liabilities of that council as may be so specified;
- and, in any case within section 67(3)(b) of this Act, for the transfer to the company carrying on the joint undertaking of any property, rights and liabilities of the council concerned which are comprised in that company's share as determined by or under the order;
- (d) for the transfer to such person as may be so specified from any council participating in the joint undertaking, or from the body carrying on the undertaking, of all such functions as may be determined by or under the order, being functions conferred or imposed on that council or body under any Act for the purposes of or in connection with the joint undertaking;
  - (e) for determining the effect of any transfer under the order in relation to persons employed in the joint undertaking or any part of it;
  - (f) for the protection of the interests of persons who by virtue of any transfer under the order fall to be treated as persons employed by the person taking that transfer;
  - (g) for the termination of the operating agreement on such terms as may be specified in the order; and
  - (h) in any case within section 67(3)(a) of this Act, for the dissolution of the body carrying on the joint undertaking.

- (10) An order made by the Secretary of State under this section—

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- (a) may give effect to the proposals submitted to him under this section either without modifications or with such modifications as, after consultation with the council or councils concerned, the Secretary of State thinks fit; or
- (b) if the Secretary of State is not satisfied that the proposals accord with any such advice given by him as is mentioned in subsection (6) above, or would do so with appropriate modifications, may make such provision in substitution for those proposals as the Secretary of State, after such consultation, thinks fit;

and references in subsection (9) above to an order's making provision for the transfer of any property, rights and liabilities in accordance with any such proposals shall be read as referring to those proposals as approved by the Secretary of State or to any provision made by the order by virtue of paragraph (b) above, as the case may require.

## 70 Supplementary provisions with respect to orders under section 69.

- (1) Any order under section 69 of this Act may contain such supplementary, incidental and consequential provisions as the Secretary of State thinks necessary or expedient for the purposes of the order, and in particular (but without prejudice to the generality of that) may include provision—
  - (a) for the assumption by any council participating in the joint undertaking and by any person to whom any property, rights and liabilities are transferred under the order 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 from the other activities of the council of the joint undertaking or (as the case may be) of any activities of that council for the purposes of the joint undertaking;
  - (b) for the settlement by a court or otherwise of any dispute or other matter arising in connection with the order;
  - (c) for making in any statutory provision relating to, or to a class of undertakings which includes, the joint undertaking, such amendments or repeals as may appear to the Secretary of State to be required in consequence of any transfer under the order;
  - (d) for the making by any person to whom any property, rights and liabilities are transferred under the order to any council participating in the joint undertaking of payments by way of contributions to the cost of any adjustments arising from the severance mentioned in paragraph (a) above; and
  - (e) with respect to the consideration to be provided by any such person for any transfer under the order.
- (2) Subject to subsection (3) below, any property, rights and liabilities for the transfer of which provision is made by an order under section 69 of this Act shall be transferred and vest in accordance with the order on such date or dates as may be appointed by the order for that purpose.
- (3) Subject to the following provisions of this section, Schedule 4 to the 1968 Act (supplementary provisions as to certain transfers of property, rights and liabilities) shall apply to any transfer under subsection (2) above; and subsection (2) above shall have effect subject to the provisions of that Schedule.
- (4) In Schedule 4 as it applies by virtue of subsection (3) above—
  - (a) any reference to a transfer by or a vesting by virtue of that Act shall be read as a reference to a transfer by or a vesting by virtue of the order; and

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- (b) the reference in paragraph 13(5) to the relevant provisions of that Act shall be read as including a reference to the relevant provisions of this Act.
- (5) Any order under section 69 of this Act may make modifications in Schedule 4 for the purposes of its application to a transfer effected by that order.

## **71 Exemption for councils running small bus undertakings.**

- (1) Where in the case of any council operating a bus undertaking the number of vehicles owned by the council and used or appropriated for use in providing any service for the carriage of passengers by road which requires a PSV operator's licence does not exceed such number as may be specified by order made by the Secretary of State, the Secretary of State may on the application of that council grant to that council an exemption from section 66(1) of this Act for such period and on such terms and conditions as he thinks fit.
- (2) Any such exemption shall cease to have effect if any term or condition applicable to it is contravened.
- (3) Where a council operating a bus undertaking is in possession of a vehicle under an agreement for hire, hire-purchase, conditional sale or loan, that vehicle shall be treated for the purposes of subsection (1) above as owned by the council.

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