



# Transport Act 1985

## 1985 CHAPTER 67

### PART IV

#### LOCAL PASSENGER TRANSPORT SERVICES

##### *Passenger Transport Areas*

#### **57 Passenger Transport Areas, Authorities and Executives**

(1) In section 9 of the 1968 Act (designation of passenger transport areas and establishment of Passenger Transport Authorities and Executives)—

(a) for subsections (1) to (4) there shall be substituted the following subsections—

“(1) 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
- (ii) in Scotland, that part of the Strathclyde region which was a designated area for the purposes of this Part of this Act immediately before the date on which section 57 of the Transport Act 1985 came into operation;

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 council; and
- (ii) in relation to the Strathclyde passenger transport area, the Strathclyde regional council ; and

(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 the body which

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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.

- (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 area.”;
- (b) in subsection (5), as it applies to England and Wales, for the words " constituent areas " there shall be substituted the words " the districts comprised in a passenger transport area ";
  - (c) in subsection (5), as it applies to Scotland, for the word " designated" there shall be substituted the words " passenger transport " ; and
  - (d) subsection (7) shall be omitted.

(2) After section 9 there shall be inserted the following sections—

**“9A General functions of Passenger Transport Authorities and Executives.**

- (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.

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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 without subsidy; and
  - (b) is subject to sections 89 to 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.

- (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 interconnected bodies corporate any one or more of which is such an operator;
  - (b) in Scotland, a regional or islands council, 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

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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 interconnected 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.

### **9B Consultation and publicity with respect to policies as to services.**

- (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 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)(fl) above; and

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- (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.”
- (3) Section 20 of the 1968 Act (which imposes a special duty on the Executive for any passenger transport area to which that section is applied by an order made by the Secretary of State under subsection (1) of that section to secure by agreement with the Railways Board the provision of such railway passenger services as the Authority decide to be necessary to ensure a proper contribution towards the provision of a properly integrated and efficient system of public passenger transport to meet the needs of their area) shall apply in relation to the Executive for every passenger transport area; and subsection (1) of that section shall accordingly cease to have effect.
- (4) Without prejudice to section 17(2)(b) of the Interpretation Act 1978 (preservation of subordinate legislation) any order under section 9(1) of the 1968 Act or under section 202(4) of the 1972 Act (orders establishing Passenger Transport Executives) which applies in relation to a Passenger Transport Executive immediately before this section comes into force shall have effect, so far as it makes with respect to that Executive any such provision as is mentioned in section 9(3) (as substituted by subsection (1) above), as if made under that provision (as so substituted).
- (5) Section 9A(8) of the 1968 Act shall not apply in relation to any person appointed before this section comes into force as a member, officer or servant of the Passenger Transport Executive for any passenger transport area.
- (6) Schedule 3 to this Act shall have effect for the purpose of making amendments consequential on the provisions of this section in the 1968 Act and in the other enactments there mentioned.

## **58 Local government reorganisation: transport functions**

- (1) The following provisions of this section, with the exception of subsection (5), shall have effect from the abolition date within the meaning of the Local Government Act 1985 (that is to say, 1st April 1986).
- (2) In section 9 of the 1968 Act (as amended by section 57(1) of this Act)—
  - (a) in subsection (1)—
    - (i) at the beginning there shall be inserted the words " Subject to any order under section 42(1)(c) of the Local Government Act 1985 (alteration or abolition of passenger transport areas, etc.) "; and
    - (ii) in paragraph (b)(i), for the word "council" there shall be substituted the words " passenger transport authority for the county which is coterminous with or includes that passenger transport area ";
  - (b) in subsection (4), after the word " the " (where it last occurs) there shall be inserted the words " county which is coterminous with or includes that ";

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- (c) in subsection (5), as it applies in England and Wales, after the words " comprised in " there shall be inserted the words " a county which is coterminous with or includes ".
- (3) In section 9B(1) of that Act, after the words " comprised in " there shall be inserted the words " the county which is coterminous with or includes ".
- (4) In the Local Government Act 1985—
  - (a) paragraphs 1, 2 and 4 of Schedule 12 shall be omitted;
  - (b) in section 39(2) (operative dates for Schedule 12), for the words "paragraphs 1 to 4" there shall be substituted the words " paragraph 3 "; and
  - (c) in section 42(1)(c) (reorganisation of functions with respect to passenger transport), after the words " section 39 above " there shall be inserted the words " or section 58 of the Transport Act 1985 ".
- (5) Provisions of that Act referring generally to that Act, or to any provision made by or under that Act, shall have effect as if subsections (1) to (3) above were contained in that Act.

## **59 Transfer of bus undertakings of Executives to companies owned by Authorities**

- (1) Before such date as the Secretary of State may specify in the case of any Passenger Transport Executive in a direction given to that Executive, the Executive shall form a company for the purpose of carrying on—
  - (a) activities of any description carried on by the Executive in or for the purposes of the provision of any service for the carriage of passengers by road currently provided by the Executive in exercise of any of their powers under section 10(1) of the 1968 Act; and
  - (b) any activities which appear to the Executive to be incidental to or connected with any activities within paragraph (a) above or to be capable of being conveniently carried on in association with any such activities.
- (2) The company shall be a company limited by shares registered under the Companies Act 1985.
- (3) Where the Executive for any passenger transport area have formed a company in pursuance of this section, the Executive shall, before such date as the Secretary of State may specify in a direction given to the Executive, submit to the Secretary of State a scheme providing for the transfer to the company of any property, rights or liabilities of the Executive, or of any wholly-owned subsidiary of theirs, which it appears to the Executive to be appropriate to transfer to that company.
- (4) In preparing a scheme in pursuance of subsection (3) above, the Executive in question 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).
- (5) A scheme under subsection (3) above 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 Executive and with the Passenger Transport Authority for the area in question, he thinks fit.

- (6) If the Secretary of State is not satisfied that a scheme submitted under subsection (3) 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 the Executive and with the Passenger Transport Authority for the area in question, 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.
- (8) Following the transfer to the company under subsection (7) above of the property, rights and liabilities affected by the scheme, the Executive shall, before such date as the Secretary of State may specify in a direction given to the Executive, transfer all shares in or other securities of the company to the Passenger Transport Authority for their area.
- (9) Where—
  - (a) the property, rights and liabilities transferred under subsection (7) above include the whole of the undertaking of any wholly-owned subsidiary of the Executive ; and
  - (b) it appears to the Executive that no further action is required on the part of that subsidiary to perfect any transfer under that subsection ;the Executive shall secure that that subsidiary is wound up.
- (10) Without prejudice to any other restriction on their powers, a Passenger Transport Executive may not dispose of any shares in or other securities of a company formed by that Executive in pursuance of this section otherwise than in accordance with subsection (8) above.

## **60 Exclusion of public sector co-operation requirements and bus operating powers**

- (1) This section applies where in the case of any passenger transport area a company (referred to below in this Part of this Act, in relation to that area, as " the initial company ") has been formed by the Passenger Transport Executive for that area (" the Executive ") in pursuance of section 59 of this Act.
- (2) At any time after the Secretary of State has given to the Executive a direction under subsection (3) of that section the Secretary of State may by order provide that the Executive shall cease, on a day specified in the order, to be under the duty imposed by section 24(2) of the 1968 Act (duty to co-operate with the National Bus Company and the Scottish Transport Group and to enter into agreements for that purpose).
- (3) Where an order is made under subsection (2) above, any duty of the National Bus Company and the Scottish Transport Group under section 24(2) of the 1968 Act to cooperate with the Executive (or with each other) shall cease on the day specified in the order to apply in relation to the Executive's area.
- (4) Any order under subsection (2) above may include provision for the termination of any agreements made under section 24(2) to which the Executive are a party, on such terms and such dates as may be specified in relation to those agreements in the order (and different terms and dates may be so specified in relation to different agreements).

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- (5) At any time after the transfer required under section 59(8) of shares in or other securities of the initial company to the Passenger Transport Authority for the Executive's area has taken place the Secretary of State may by order provide that the Executive shall cease, on a day specified in the order, to have the powers under section 10(1)(i) and (viii) of the 1968 Act (powers to carry passengers by road and to let passenger vehicles on hire with or without trailers for the carriage of goods).
- (6) Where an order is made under subsection (5) above in relation to the Executive, section 16(2) of the 1968 Act (which relates to the provision of special information in the annual report of Authorities and Executives as to certain businesses of providing services for the carriage of passengers by road) shall cease to apply in relation to any accounting period of the Executive beginning on or after the day specified in the order.
- (7) The Secretary of State may by order provide for the repeal of—
  - (a) section 24(2) of the 1968 Act; and
  - (b) section 10(1)(i) and (viii) of that Act;
 on the date on which, by virtue of the cumulative effect of orders made under this section, there ceases to be any Passenger Transport Executive in Great Britain who are under the duty imposed by section 24(2) or have the powers under section 10(1)(i) and (viii).
- (8) Any order made under subsection (7) above may contain such supplementary, incidental and consequential provisions (including provisions modifying any enactment contained in this or any other Act) as may appear to the Secretary of State to be necessary or expedient in consequence of any repeals made by the order.

## **61 Division of undertakings of companies formed under section 59**

- (1) Where in the case of any passenger transport area the transfer required under section 59(8) of this Act of shares in or other securities of the initial company to the Passenger Transport Authority for that area has taken place, the Secretary of State may by a direction given to that Authority require the Authority to submit to him in accordance with the following provisions of this section written proposals for the division of the undertaking of the initial company among two or more companies to be formed in pursuance of the proposals.
- (2) Where the initial company has any wholly-owned subsidiaries, the proposals may, instead of or (as the case may be) in addition to providing for the transfer to any one or more of those companies of the shares in or other securities of any such subsidiary comprised in the initial company's undertaking, provide for—
  - (a) the division among those companies ; or
  - (b) the transfer to any one of them ;
 of the whole or any part of the undertaking, or of any property, rights or liabilities, of that subsidiary.
- (3) The proposals shall be submitted to the Secretary of State before the end of such period as may be specified in the direction.
- (4) The proposals shall—
  - (a) provide for each company to be formed in pursuance of the proposals (referred to below in this section as a transferee company) to be a company limited by shares and registered under the Companies Act 1985 ;



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- (b) broadly describe the manner in which the undertaking of the initial company, and the whole or any part of the undertaking of any wholly-owned subsidiary of the initial company to which the proposals relate, is to be divided among the transferee companies or (as the case may be) transferred in accordance with the proposals to any one of those companies ; and
  - (c) provide for the winding up of the initial company, and of any wholly-owned subsidiary of the initial company the whole of whose undertaking is to be transferred in accordance with the proposals to any one or more of the transferee companies, on completion of the transfer of that company's or (as the case may be) of that subsidiary's undertaking.
- (5) In preparing their proposals the Authority 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 of the initial company and of any wholly-owned subsidiary of the initial company it is in his view appropriate to transfer to each of the transferee Companies).
- (6) The Secretary of State may approve the proposals either without modifications or with such modifications as, after consultation with the Authority, he thinks fit.
- (7) If the Secretary of State is not satisfied that the proposals accord with any such advice given by him as is mentioned in subsection (5) above, or would do so with appropriate modifications, he may, after consultation with the Authority, instead of approving the proposals substitute for them a plan of his own.
- (8) When the Secretary of State has approved the proposals or substituted for them a plan of his own, the Authority shall form each transferee company in accordance with the proposals as approved by the Secretary of State or (as the case may be) in accordance with the Secretary of State's plan, and secure the registration of that company under the Companies Act 1985, before such date as the Secretary of State may specify in relation to that company in giving his approval to the proposals or (as the case may be) in that plan.
- (9) When all the transferee companies have been formed in accordance with the proposals as so approved or (as the case may be) in accordance with the Secretary of State's plan, the Authority shall, before such date as the Secretary of State may specify in a direction given to the Authority, submit to the Secretary of State a scheme providing for the transfer to each transferee company of any property, rights and liabilities—
  - (a) of the initial company ; and
  - (b) of any wholly-owned subsidiary of the initial company;which are to be transferred in accordance with those proposals or (as the case may be) in accordance with that plan to that transferee company.
- (10) A scheme under subsection (9) above 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 Authority, he thinks fit.
- (11) On the coming into force of a scheme under subsection (9) above 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.

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- (12) When it appears to the Authority that no further action is required on the part of the initial company to perfect any transfer effected by the scheme, the Authority shall secure that the initial company is wound up in accordance with the proposals as approved by the Secretary of State or (as the case may be) in accordance with the Secretary of State's plan.
- (13) Subsection (12) above shall apply in relation to any subsidiary of the initial company the whole of whose undertaking is transferred under the scheme to one or more of the transferee companies as it applies in relation to the initial company.

## **62 Protection of employee benefits on transfer and division of bus undertakings**

- (1) In this section, as it applies in relation to the Passenger Transport Executive or (as the case may be) in relation to the Passenger Transport Authority for any passenger transport area—
- " the first transfer " means the transfer under section 59(7) of this Act to the initial company of property, rights and liabilities of the Executive for that area ; and
- " the second transfer" means the transfer under section 61(11) of this Act to companies formed under that section of property, rights and liabilities of the initial company;
- and " the first transfer date " and " the second transfer date " mean respectively the date on which the first transfer and the date on which the second transfer takes effect.
- (2) The Passenger Transport Executive for any passenger transport area shall have power to make, in such manner as they think fit, such provision as appears to them to be appropriate in connection with either the first or the second transfer for the maintenance to any extent of any concession, benefit Or privilege of a description enjoyed immediately before the first transfer date by—
- (a) persons who then were or had been employed in such part of the Executive's undertaking, or of the undertaking of any wholly-owned subsidiary of the Executive, as was transferred on that date to the initial company; or
  - (b) members of the families of any such persons.
- (3) Subject to subsection (4) below, the Passenger Transport Authority for any passenger transport area shall have power to make, in such manner as they think fit, such provision as appears to them to be appropriate in connection with the second transfer for the maintenance to any extent of any concession, benefit or privilege of a description enjoyed immediately before the second transfer date by—
- (a) persons who then were or had been employed in any undertaking or part of an undertaking transferred on that date to a company formed under section 61 of this Act; or
  - (b) members of the families of any such persons.
- (4) Subsection (3) above shall not apply to any concession, benefit or privilege of a description to which subsection (2) above applies.
- (5) Where provision for the maintenance of a concession, benefit or privilege of any description may be made under subsection (2) or (3) above provision may instead be made, in any cases or classes of case to which that subsection applies, for the making of any payment or the provision of any other concession, benefit or privilege

in compensation for the loss or (as the case may be) for any reduction or limitation of concessions, benefits or privileges of that description.

*Passenger transport in other areas*

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

- (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 regional or islands 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 (1)(b) or (2)(b) above with respect to the descriptions of services they propose to secure under subsection (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—
  - (a) any of their functions as a local education authority or (as the case may be) as an education authority ; or
  - (b) any of their social services or (as the case may be) social work functions.
- (4) A non-metropolitan district council in England and Wales 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 regional or islands 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

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- 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 (as the case may be) of a regional or islands council, in exercising their power under subsection (6) above, so to conduct themselves as not to inhibit 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 regional or islands 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 regional or islands 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.

## **64 Consultation and publicity with respect to policies as to services**

- (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 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 ;
- and where the council's area is in England and Wales 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.

## **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 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.

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- (5) Subsection (3) above is without prejudice to section 6 of the London Regional Transport Act 1984 (obligation of London Regional Transport to invite tenders for carrying on activities in certain circumstances).

## **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 and Wales or, in Scotland, a regional council shall not have power to provide a service for the carriage of passengers by road which requires a PSV operator's licence.
- (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

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- (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.

## **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 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 of 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 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

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on, in pursuance of the agreement by reference to which that council falls within subsection (3) above.

**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 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 relate 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 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

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- 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—
- (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
  - (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.

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## **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.

*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 regional council; 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—
  - (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 regional council, if that council are its controlling authority or one of the component councils of a composite authority who are its controlling authority.

### **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—
- (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.

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- (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**

- (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—
- (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 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

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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.

## **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 or a district or regional council—
- (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 or a district or regional council 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.

## **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 qualified for appointment as such auditors in accordance with



section 389 of the Companies Act 1985, are approved for appointment as auditors of that company by the Audit Commission for Local Authorities in England and Wales.

- (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.

## **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 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 qualified for appointment as such auditors in accordance with section 389 of the Companies Act 1985, 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.

## **78 Provision of services for public transport companies**

- (1) A Passenger Transport Executive and a district council or, in Scotland, a regional council 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.

## **79 Financial backing for establishment and operations of public transport companies**

- (1) A Passenger Transport Authority and a district council or, in Scotland, a regional council 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.

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- (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 regional council 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 regional council 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
  - (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 regional council 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 regional council 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).

*Miscellaneous and supplementary*

**80 Duty of Passenger Transport Authority not to inhibit competition**

A Passenger Transport Authority, in exercising their functions—

- (a) in relation to the formation of companies under section 61 of this Act and the formulation of proposals under that section;
- (b) in relation generally to the exercise of rights in relation to any public transport company arising from the holding of any shares in or other securities of that company;
- (c) in relation in particular to the exercise of control by virtue of any such rights over any disposal by any such company of the whole or any part of that company's undertaking, or of any property, rights or Liabilities of that company; and
- (d) in relation to any disposal under section 75(2) of this Act;

shall so conduct themselves as not to inhibit competition between persons providing or seeking to provide public passenger transport services in their area.

**81 Provision, maintenance and operation of bus stations**

- (1) A Passenger Transport Executive for any passenger transport area shall have power—
  - (a) to provide bus stations and associated facilities at any place in or in the vicinity of their area ; and
  - (b) to maintain, repair and operate bus stations and associated facilities provided under paragraph (a) above or under their former powers.
- (2) Where a council who, at the time when section 66 of this Act comes into force, are providing a service for the carriage of passengers by road which requires a PSV operator's licence, have ceased by virtue of subsection (1) of that section to have power to provide such a service, that council shall have power to maintain, repair and operate bus stations and associated facilities provided by them under their former powers
- (3) Any charges for the use of accommodation for public service vehicles at any bus station provided by the Passenger Transport Executive for any passenger transport area or provided by any other person under any agreement entered into by any such Executive under section 10(1)(xv) of the 1968 Act (contracting-out powers) shall be reasonable.
- (4) Subsection (3) above only applies where the charges are made by the Executive in question under section 10(1)(xiii) of that Act or by a person who is operating the bus station under any such agreement otherwise than as agent for the Executive.
- (5) Any such council as is mentioned in subsection (2) above shall have power—
  - (a) to make reasonable charges for the use of accommodation for public service vehicles at any bus station provided under their former powers ; and
  - (b) to make reasonable charges for the use of, or let on hire to any person, any associated facilities provided by them in connection with any bus station so provided.
- (6) If any person who is the holder of a PSV operator's licence in respect of any vehicles using accommodation for public service vehicles at any such bus station as is mentioned in subsection (3) or (5) above considers that charges for the use of that accommodation are unreasonable, that person may apply to the traffic commissioner

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for the traffic area in which the bus station is situated (or, where it is situated partly in one area and partly in another, to the traffic commissioner for such of those areas as may be agreed between the traffic commissioners concerned or, in default of agreement, determined by the Secretary of State).

- (7) On any application under subsection (6) above the traffic commissioner may determine the charges to be made in respect of the applicant's vehicles for such period and on such terms as he thinks fit.

## **82 Bus stations: restrictions on discriminatory practices, etc.**

- (1) Neither a Passenger Transport Executive nor a local authority shall, in the exercise of any of their powers:—

- (a) in relation to the provision or operation of bus stations or any associated facilities; or
- (b) (without prejudice to paragraph (a) above) in relation in particular to the charges to be made for the use of any accommodation at a bus station or of any associated facilities;

act in such a way as to discriminate (whether directly or indirectly) against any holder, or class of holder, of a PSV operator's licence.

- (2) In relation to a local authority, the powers in question under subsection (1) above include in particular (without prejudice to the generality of that subsection) their powers under section 38 of the Road Traffic Regulation Act 1984 (appointment of parking places provided under section 32 of that Act as stations for public service vehicles and provision of accommodation in connection with places so appointed).

- (3) Where under any agreement (other than an agency agreement) entered into by a Passenger Transport Executive under section 10(1)(xv) of the 1968 Act (contracting-out powers) a person is operating a bus station or any associated facilities provided by that Executive or provided by that or any other person under any such agreement, that person shall not—

- (a) in relation to the operation of that bus station or (as the case may be) of those facilities ; or
- (b) (without prejudice to paragraph (a) above) in relation in particular to the charges to be made for the use of any accommodation at that station or (as the case may be) for the use of those facilities ;

act in such a way as to discriminate (whether directly or indirectly) against any holder, or class of holder, of a PSV operator's licence.

- (4) The reservation of the whole or any part of the accommodation for public service vehicles at any bus station for such vehicles used in providing local services or (as the case may be) for such vehicles used in providing services other than local services shall not be taken to be discrimination prohibited by subsection (1) or (3) above.

- (5) Notwithstanding anything in section 8 of the Transport Act 1983 (obligation to accept tenders for carrying on activities of Executives in certain circumstances) a Passenger Transport Executive may not in exercise of their powers under section 10(1)(xv) of the 1968 Act enter into an agreement (other than an agency agreement) for—

- (a) the provision of any bus station or associated facilities the Executive have power under section 81 of this Act to provide; or
- (b) the operation of any bus station or associated facilities provided by the Executive under that section or under their former powers or provided by

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any other person under any agreement entered into by the Executive under section 10(1)(xv);

by a person who is the operator of any public passenger transport services or a person connected with any such operator.

- (6) In this section " agency agreement" means, in relation to any agreement under section 10(1)(xv), an agreement with any person for the carrying on of activities by that person as agent for the Executive concerned.
- (7) Any such agreement as is mentioned in subsection (5)(b) above entered into after this subsection comes into force shall include provision for ensuring that it will come to an end if the person who under the agreement is to operate the bus station or associated facilities to which it applies becomes the operator of any public passenger transport services or a person connected with any such operator.
- (8) On and after the date on which this section comes into force, subsection (5) above shall apply in relation to any such agreement as is there mentioned entered into by the Passenger Transport Executive for any passenger transport area before that date as if this section had come into force on 11th July 1985.

### **83 Provisions supplementary to sections 81 and 82**

- (1) References in section 81 of this Act to the former powers of any such council as is mentioned in subsection (2) of that section are references to any powers which have ceased to be exercisable by that council by virtue of the application to that council of section 66(1) of this Act; and references in that section and in section 82 of this Act to the former powers of a Passenger Transport Executive are references to any powers which have ceased to be exercisable by that Executive by virtue of any order under section 60(5) of this Act.
- (2) For the purposes of section 82 of this Act a person is a person connected with the operator of any public passenger transport services if that person is a member of a group of interconnected bodies corporate any one of more of which is such an operator.
- (3) For the purposes of subsection (2) above, any two bodies corporate are to be treated as interconnected 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.
- (4) In section 82 of this Act " local authority " means—
  - (a) in relation to England and Wales, the council of a county, London borough or district or the Common Council of the City of London ; and
  - (b) in relation to Scotland, a regional or islands council.
- (5) In sections 81 and 82 of this Act and this section—
  - (a) " bus station " means a parking place which may be used by public service vehicles (including any such parking place which forms part of any interchange facilities for enabling passengers travelling by one means of transport to continue their journey by another) ; and
  - (b) " associated facilities" means, in relation to a bus station, any amenities or facilities provided for use in connection with that station.

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## **84 Compensation for loss of employment, etc.**

- (1) Regulations may provide for the payment, by such persons as may be prescribed by or determined under the regulations, in such cases and to such extent as may be so prescribed or determined, of pensions; allowances or gratuities by way of compensation to or in respect of persons who have suffered loss of employment or loss or diminution of emoluments or pension rights by reason of—
- (a) the disposal under section 75(2) of this Act of any interests held by a Passenger Transport Authority or district or regional council in a public transport company;
  - (b) the disposal by any such company of the whole or any part of that company's undertaking; or
  - (c) any transfer of property, rights and liabilities under section 59, 61, 68 or 70 of this Act.
- (2) Regulations under this section may—
- (a) include provision as to the manner in which and the persons to whom any claim for compensation is to be made, and for the determination of all questions arising under the regulations;
  - (b) make or authorise the Secretary of State to make exceptions and conditions in relation to any classes of persons or any circumstances to which the regulations apply; and
  - (c) be framed so as to have effect from a date earlier than the making of the regulations;
- but regulations having effect from a date earlier than their making shall not place any individual who is qualified to participate in the benefits for which the regulations provide in a worse position than he would have been in if the regulations had been so framed as to have effect only from the date of their making.
- (3) Regulations under this section may include all or any of the following provisions, namely—
- (a) provision authorising the payment, without probate or, in Scotland, confirmation, and without other proof of title, of any sum due under the regulations in respect of a person who has died to his personal representatives or such other persons as may be prescribed by the regulations;
  - (b) provision rendering void any assignment or, in Scotland, assignation of or charge on, or any agreement to assign or charge, any benefit under the regulations, and provision that on the bankruptcy of or, in Scotland, sequestration of the estate of, or granting of a trust deed for creditors by, a person entitled to such a benefit no part of it shall pass to any trustee or other person acting on behalf of the creditors except in accordance with an order made by a court in pursuance of any enactment specified in the regulations ; and
  - (c) such incidental, supplementary, consequential and transitional provisions as appear to the Secretary of State to be necessary or expedient.
- (4) Subject to subsection (5) below, where regulations under this section have made provision for the payment of pensions, allowances or gratuities as mentioned in subsection (1) above, compensation in respect of any such loss of employment or loss or diminution of emoluments or pension rights as is mentioned in that subsection shall be paid only in accordance with those regulations in any case to which those

regulations apply; and accordingly such compensation shall not be paid under any other statutory provision, by virtue of any provision in a contract or otherwise.

- (5) Subsection (4) above shall not prevent any person from making any payment to which a person is entitled by virtue of contractual rights acquired by him before such date as the Secretary of State may by order specify.

## **85 Incorporation of Passenger Transport Executives in Authorities for their area**

- (1) The Secretary of State may by order make provision for the transfer of all functions, property, rights and liabilities of the Passenger Transport Executive for any passenger transport area specified in the order to the Passenger Transport Authority for that area.
- (2) An order under this section may contain such supplementary, incidental and consequential provisions as may appear to the Secretary of State to be necessary or expedient.
- (3) Without prejudice to the generality of subsection (2) above, any such order may, in particular—
- (a) provide for enactments relating to the functions of Passenger Transport Executives and Authorities respectively to have effect in relation to the passenger transport area specified in the order with such modifications as may be so specified ; and
  - (b) provide for the dissolution of the Passenger Transport Executive for that area.
- (4) The property, rights and liabilities to which an order under this section relates shall, subject to subsection (5) below, be transferred and vest in accordance with the order on such date as may be appointed by the order for that purpose.
- (5) Subject to the following provisions of this section, Schedule 4 to the 1968 Act shall apply to any transfer under subsection (4) above; and subsection (4) above shall have effect subject to the provisions of that Schedule.
- (6) In Schedule 4 as it applies by virtue of subsection (5) 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
  - (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.
- (7) Any order under this section may make modifications in Schedule 4 for the purposes of its application to a transfer effected by that order.
- (8) No order shall be made under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

## **86 Amendments consequential on orders under section 85**

- (1) The Secretary of State may by order provide for the modifications in the enactments mentioned in section 85(3)(a) of this Act, as those modifications apply for the time being in relation to passenger transport areas to which an order under that section applies, to have general effect on the date on which, by virtue of the cumulative effect of orders under that section, they first have effect in relation to all such areas in Great Britain.

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- (2) Any order made under this section may contain such supplementary, incidental and consequential provisions (including provisions modifying any enactments contained in this or any other Act) as may appear to the Secretary of State to be necessary or expedient in consequence of giving general effect to the modifications mentioned in subsection (1) above.

## **87 Interpretation of Part IV**

In this Part of this Act—

- (a) references to the initial company shall be read, in relation to any passenger transport area, in accordance with section 60(1) of this Act;
- (b) references to a council operating a bus undertaking shall be read in accordance with section 66(2) of this Act;
- (c) references to—
  - (i) a service for the carriage of passengers by road which requires a PSV operator's licence ;
  - (ii) the provision of any such service by any council; and
  - (iii) the bus undertaking of any council operating a bus undertaking; shall be read in accordance with the relevant provisions of section 66(7) of this Act;
- (d) references to a joint undertaking of which any council's bus undertaking forms part shall be read in accordance with section 67(6) of this Act; and
- (e) references to—
  - (i) a public transport company;
  - (ii) a public transport company's controlling authority ;
  - (iii) a composite authority ;
  - (iv) component councils of a composite authority ; and
  - (v) an associated company;shall be read in accordance with the relevant provisions of section 72 of this Act.