



# Transport Act 1985

## 1985 CHAPTER 67

### PART VI

#### MISCELLANEOUS AND GENERAL

##### *Exclusion of requirement to co-ordinate services of public sector transport undertakings*

#### **113 Repeal of section 24(3) of the 1968 Act**

- (1) Section 24(3) of the 1968 Act (which imposes on the National Bus Company, the Railways Board and the Scottish Transport Group a duty to co-operate with one another for the purpose of co-ordinating the passenger transport services provided respectively by them or by their subsidiaries) shall cease to have effect.
- (2) In subsection (4) of that section, for the words " Subsections (2) and (3)" there shall be substituted the words " Subsection (2) " .

##### *Competition law: bus services and bus stations*

#### **114 Monopoly references with respect to bus services**

- (1) In section 11 of the Competition Act 1980 (references of public bodies and certain other persons subject to statutory controls to the Monopolies and Mergers Commission), in subsection (3) (which lists the persons who may be the subject of such a reference)—
  - (a) for paragraph (b) (any person not within paragraph (a) providing a bus service within the meaning of certain enactments) there shall be substituted the following paragraph—
    - “(b) any person (not falling within paragraph (a) above) who provides in Northern Ireland a bus service within the meaning of section 14 of the Finance Act (Northern Ireland) 1966 ; or”; and

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- (b) in paragraph (bb), for the words " last-mentioned Act " there shall be substituted the words " London Regional Transport Act 1984 ".
- (2) In Part I of Schedule 5 to the Fair Trading Act 1973 (which lists certain goods and services in respect of which references under section 14 of that Act to the Consumer Protection Advisory Committee or under section 50 or 51 of that Act to the Monopolies and Mergers Commission are excluded or, as the case may be, subject to restrictions not applicable in other cases)—
  - (a) for paragraph 4 (which at the passing of this Act refers to the carriage of passengers by road or rail) there shall be substituted the following paragraph—
    - “4. The carriage of passengers by road in Northern Ireland”; and
  - (b) in paragraph 5 (which at the passing of this Act refers to the carriage of goods by rail), after the word " goods " there shall be inserted the words " or passengers ".
- (3) In paragraph 15(1) of Schedule 6 to the London Regional Transport Act 1984, paragraph (a) (amendment of section 11(3)(b) of the Competition Act 1980) shall be omitted.

#### **115 Application of Restrictive Trade Practices Act 1976 to agreements between road passenger transport operators**

- (1) In paragraph 4 of the Schedule to the Restrictive Trade Practices (Services) Order 1976 (which excepts certain agreements between road passenger transport operators from the agreements which by virtue of Article 3 of the Order are agreements to which the Restrictive Trade Practices Act 1976 applies)—
  - (a) in sub-paragraph (1) there shall be substituted for the words " of stage carriages or express carriages or both " the words " in Northern Ireland, or in Northern Ireland and the Republic of Ireland, of services, using one or more public service vehicles (within the meaning of the Public Passenger Vehicles Act 1981), for the carriage of passengers by road at separate fares." ; and
  - (b) sub-paragraph (2) shall be omitted.
- (2) That Act shall have effect in relation to any agreement (within the meaning of that Act) made before this section comes into force as if the variation of that Order made by subsection (1) above had been made by an order under section 11 of that Act coming into force on the date on which this section comes into force.

#### **116 Use of bus stations: monopolies, anti-competitive practices and restrictive trade practices**

- (1) In subsection (3) of section 137 of the Fair Trading Act 1973 (which defines " the supply of services " for the purposes of that Act and, by virtue of section 33(2) of the Competition Act 1980, for the purposes also of sections 2 to 24 of the latter Act) there shall be inserted after paragraph (c)—
  - “and
  - (d) includes the making of arrangements for the use by public service vehicles (within the meaning of the Public Passenger Vehicles Act 1981) of a parking place which is used as a point at which passengers

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on services provided by means of such vehicles may be taken up or set down.”

- (2) In section 20 of the Restrictive Trade Practices Act 1976 (interpretation of the Part of the Act dealing with services) there shall be inserted after paragraph (b) in the definition of " services —

“and

- (c) includes arrangements for the use by public service vehicles (within the meaning of the Public Passenger Vehicles Act 1981) of a parking place which is used as a point at which passengers on services provided by means of such vehicles may be taken up or set down.”

- (3) The Act of 1976 shall have effect in relation to any agreement (within the meaning of that Act) which—

- (a) was made before the date on which this section comes into force; and  
(b) becomes subject to registration under that Act on that date by virtue of the effect which an order under section 11 of that Act has as a result of the coming into force of this section;

as if it had become subject to registration by virtue of an order under sections 11 coming into force on that date.

#### *Reconstitution of the Transport Tribunal*

### **117 Reconstitution of the Transport Tribunal**

- (1) The number of members of the Transport Tribunal shall no longer be subject to any limit; and the tribunal shall no longer be required to sit in two divisions.
- (2) Schedule 4 to this Act shall have effect (in place of the existing law) with respect to the constitution, powers and proceedings of the tribunal.
- (3) The following panels, that is to say
- (a) the special panel constituted in accordance with paragraph 6 of Schedule 10 to the 1962 Act (special panel for the purposes of the tribunal's jurisdiction under part V of the 1968 Act); and
- (b) any panel appointed under section 88(2)(b) of the 1968 Act (panel of assessors for proceedings before the tribunal under Part V of that Act);
- are abolished.

#### *Road passenger transport services in place of railway services*

### **118 Railways Board's road passenger transport services**

- (1) After section 4 of the 1962 Act (Railways Board's road services) there shall be inserted the following section—

#### **“4A Railways Board's road passenger transport services.**

- (1) Subject to this section, the Railways Board shall have power to secure the provision by other persons of services for the carriage of passengers by

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road where a railway service has been temporarily interrupted, or has been discontinued.

- (2) The route (and stopping places) of any such service provided where a railway service has been discontinued need not correspond precisely with the route of the discontinued service (even where it is practicable to do so), so long as the service so provided broadly corresponds with the discontinued service, in terms of the localities it serves.
- (3) Subsection (2) above is not to be taken as prejudicing the power of the Board under subsection (1) above to secure the provision of a service which deviates in any respect from the route of a railway service which has been interrupted or discontinued where it is not practicable for a service by road to correspond precisely to the railway service in question.
- (4) Before entering into any agreement in pursuance of subsection (1) above for the provision by any other person of a service for the carriage of passengers by road in a case where a railway service has been discontinued, the Board shall invite other persons to submit tenders to provide that service for such period and on such basis as may be specified in the invitation to tender.
- (5) Subsection (4) above shall not apply in relation to an agreement for the provision of such a service on a temporary basis in a case where a service for the carriage of passengers by road provided under an agreement entered into by the Board in pursuance of subsection (1) above has been temporarily interrupted.
- (6) Nothing in subsection (4) above shall be read as requiring the Board to accept any tender submitted in response to an invitation to tender issued under that subsection.
- (7) The Railways Board may not under this section secure the provision by any person of a service for the carriage of passengers by road provided otherwise than by means of public service vehicles or licensed taxis.
- (8) The Railways Board may not themselves directly provide services for the carriage of passengers by road.
- (9) In this section—
  - (a) " licensed taxi " means—
    - (i) in England and Wales, a vehicle licensed under section 37 of the Town Police Clauses Act 1847 or section 6 of the Metropolitan Public Carriage Act 1869 or under any similar enactment; and
    - (ii) in Scotland, a taxi licensed under section 10 of the Civic Government (Scotland) Act 1982 ; and
  - (b) " stopping place " means a point at which passengers are taken up or set down in the course of the service in question."
- (2) Section 4 of the 1962 Act shall cease to apply in relation to services for the carriage of passengers by road ; and, accordingly, in that section—
  - (a) in subsection (1)—
    - (i) in paragraph (a), sub-paragraph (iii) and the words " and passengers " shall be omitted ; and

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- (ii) in paragraph (b) (Board's power to exercise powers conferred by the Railway Road Transport Acts of 1928), after the word " exercise " there shall be inserted the words " in relation to the carriage of goods by road ";
- (b) subsection (5) (nothing in that section to authorise Board to use hackney carriages plying or standing for hire) shall be omitted ; and
- (c) in subsection (6) (exclusion of Board's power to provide road transport services apart from that section) the words " or passengers " shall be omitted.

## **119 Bus substitution services and bus service conditions**

- (1) This section applies where the Secretary of State imposes a condition requiring the Railways Board to secure the provision of an alternative service for the carriage of passengers by road—
  - (a) under section 54(5) of the 1968 Act, in giving his consent to the discontinuance by the Board of all railway passenger services from any station or on any line (referred to below in this section as a closure); or
  - (b) under section 122 of this Act, in revoking any previous condition to that effect (whether imposed as mentioned in paragraph (a) above or imposed under section 122);and any such service required by a condition so imposed is referred to below in this Act as a bus substitution service.
- (2) In any such case the Board shall secure the provision of the bus substitution service in exercise of their powers under section 4A of the 1962 Act (provision of road passenger transport services where a railway service has been interrupted or discontinued); and subsection (2) of that section (which makes provision with respect to the route and stopping places of any service provided on discontinuance of a railway service) shall be subject to the condition requiring the bus substitution service and to any other condition imposed by the Secretary of State in connection with the closure or (as the case may be) under section 122 of this Act with respect to the operation of that service.
- (3) The Passenger Transport Executive for any passenger transport area may enter into agreements with the Railways Board under which the Executive make payments to the Board in respect of the cost incurred by the Board in securing the provision of any bus substitution service between places in the Executive's area or between such places and places outside that area but within the permitted distance for the purposes of section 10(1)(ii) of the 1968 Act as it applies to that Executive (that is to say, twenty-five miles from the nearest point on the boundary of that area).
- (4) The Secretary of State may not vary or revoke any condition imposed by him as mentioned in subsection (1)(a) or (b) above with respect to the provision or operation of a bus substitution service (referred to below in this Act as a bus service condition) except as provided below in this section.
- (5) A bus service condition requiring the Board to secure the provision of a bus substitution service may not be—
  - (a) revoked; or
  - (b) varied so as to permit the Board to withdraw the service from any locality or point for the time being specified in the condition as a locality or point the service is required to serve;

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except in accordance with the procedure provided by sections 120 to 122 of this Act (which corresponds, with certain modifications, to the procedure applicable under section 56 of the 1962 Act in relation to a closure); but, subject to that, a bus service condition may at any time be varied or revoked by the Secretary of State.

## **120 Notice of withdrawal of bus substitution service**

- (1) Where the Railways Board propose—
  - (a) to seek revocation of a bus service condition requiring them to secure the provision of a bus substitution service; or
  - (b) to seek variation of such a condition so as to permit them to withdraw any such service from any locality or point for the time being specified in the condition as a locality or point the service is required to serve;

they shall, not less than six weeks before the date they propose for the withdrawal of the service or (as the case may be) for the withdrawal of the service from that locality or point (referred to below in this Act as the withdrawal of service) publish in two successive weeks in two local newspapers circulating in the area affected, and in such other manner as appears to them appropriate, a notice complying with subsection (2) below.
- (2) The notice shall—
  - (a) give the date proposed by the Board for the withdrawal of service and particulars of the proposed withdrawal, of any alternative services which it appears to the Board will be available and of any proposals of the Board for securing the provision of alternative services or augmenting any available alternative services; and
  - (b) state that objections to the revocation or (as the case may be) to the variation of the bus service condition may be lodged in accordance with this section within six weeks of a date specified in the notice.
- (3) The date so specified shall be the date on which the notice is last published in a local newspaper as required by subsection (1) above.
- (4) Copies of the notice published under subsection (1) above shall be sent to the appropriate Area Committee.
- (5) Where the proposed withdrawal of service relates to a service or part of a service which is subsidised by the Passenger Transport Executive for any passenger transport area under any agreement made with the Railways Board by virtue of section 119(3) of this Act, the Board shall not publish a notice with respect to the proposed withdrawal under subsection (1) above without the consent of the Executive to its publication.
- (6) If in any such case the Board publish such a notice before obtaining that consent, the notice shall be of no effect unless before the end of the period fixed by the notice for objecting to the revocation or variation of the relevant bus service condition either—
  - (a) the Executive have informed the Board in writing that they consent to the publication; or
  - (b) the Secretary of State, on an application made for the purpose by the Board (whether before or after the publication of the notice) and after offering the Executive what the Secretary of State considers a reasonable opportunity to make any representations, has directed that the notice shall have effect notwithstanding that the Executive have not consented to its publication.

- (7) Where in the case of any proposed withdrawal of service subsection (5) above does not apply but any locality or point affected by the proposed withdrawal is situated in a passenger transport area, the Railways Board shall send to the Passenger Transport Executive for that area a copy of the notice published by them under subsection (1) above.

## **121 Objections to withdrawal of bus substitution service**

- (1) Where a notice has been published by the Railways Board under section 120(1) of this Act, any user of any service affected and any body representing such users may within the period specified in the notice lodge with the appropriate Area Committee an objection in writing.
- (2) Where such an objection is lodged the committee shall immediately inform the Secretary of State and the Board.
- (3) A committee with whom an objection has been lodged under subsection (1) above shall consider the objection and any representations made by the Board and report to the Secretary of State as soon as possible on the hardship, if any, which they consider will be caused by the proposed withdrawal of service, and the report may contain proposals for alleviating that hardship.
- (4) The Secretary of State may require a further report from any committee making a report to him under subsection (3) above.
- (5) Copies of every report under subsection (3) or (4) above shall be sent to the Central Committee and to the Board.
- (6) Where, in the case of any withdrawal of service to which section 120(5) or (7) of this Act applies, notice of the withdrawal has been published under subsection (1) of that section, the Executive concerned may, within the period specified in the notice for objecting to the withdrawal, lodge with the Secretary of State a statement in writing that they oppose the withdrawal and of their reasons for opposing it. The fact that the Executive concerned gave their consent to the publication of the notice shall not affect their right under this subsection to oppose the withdrawal of service.
- (7) Where the Executive for any passenger transport area lodge such a statement with the Secretary of State they shall send a copy of that statement to the Board.
- (8) References above in this section to a notice published under section 120(1) of this Act do not include a notice which under subsection (6) of that section is of no effect.

## **122 Revocation or variation of bus service conditions**

- (1) Subject to subsection (2) below, where an objection to a proposed withdrawal of service is lodged under section 121 of this Act, the Secretary of State shall not revoke or (as the case may be) vary the bus service condition in question until he has received from the appropriate Area Committee the report required by subsection (3) of that section and any further report required by him under subsection (4) of that section.
- (2) If in any case the Secretary of State considers that any such report has been unreasonably delayed he may, after consulting the committee concerned and making such enquiries as he thinks fit, revoke or vary the condition without waiting for the report.

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- (3) Where a statement opposing the proposed withdrawal is lodged by the Executive for a passenger transport area under section 121 of this Act, the Secretary of State shall have regard to that statement in determining whether to revoke or vary the bus service condition in question.
- (4) In any case within subsection (1) or (3) above the Secretary of State shall have regard, in determining whether to revoke or vary the bus service condition in question, to any matters which for the time being appear to him to be relevant, including any social or economic considerations, and shall not revoke or vary the condition in accordance with the Board's proposals—
- (a) unless he is satisfied that a reasonable opportunity has been afforded for the making to him of representations with respect to the proposed withdrawal of service by or on behalf of employees of the Board affected by that withdrawal; or
  - (b) before he has considered any representations made while that opportunity remains available which he is satisfied are either made by such employees or made on behalf of such employees by an organisation appearing to him to represent such employees.
- (5) The reference in subsection (4)(a) above to employees of the Board affected by the withdrawal of service is a reference to persons who are employed by the Board for the purposes of, or in connection with, the service in question and who appear to the Secretary of State to be likely to be directly affected by the withdrawal of service.
- (6) In any case other than one within subsection (1) or (3) above the Secretary of State shall revoke or vary the bus service condition in question in accordance with the Board's proposals if he is satisfied that adequate notice of those proposals was given in the notice published under section 120(1) of this Act in relation to the proposed withdrawal of service.
- (7) Where in any case within subsection (1) or (3) above the Secretary of State revokes a bus service condition—
- (a) he may do so subject to such conditions as he thinks fit, including a condition requiring the Railways Board to secure the provision of an alternative service for the carriage of passengers by road; and
  - (b) he may from time to time give such directions to the Board as he thinks fit in connection with the withdrawal of the bus substitution service required by that condition;
- and, subject to section 119(4) of this Act, a condition imposed under paragraph (a) above may at any time be varied or revoked by the Secretary of State.

### **123 Supplementary and consequential provisions**

- (1) For the purposes of sections 120 to 122 of this Act and this section—
- (a) "Area Committee" means an Area Transport Users Consultative Committee established under section 56 of the 1962 Act or, in relation to the London area, the London Regional Passengers' Committee ;
  - (b) the appropriate Area Committee is the Area Committee for the area in which any locality or point affected by the proposed withdrawal of service is situated; and
  - (c) " the Central Committee " means the Central Transport Consultative Committee for Great Britain established under section 56 of the 1962 Act.



In paragraph (a) above " the London area " means the area for which for the time being the London Regional Passengers' Committee act as an Area Transport Users Consultative Committee by virtue of section 41 of the London Regional Transport Act 1984.

- (2) Where objections with respect to any proposed withdrawal of service have been lodged with more than one Area Committee, the committees in question—
- (a) may report to the Secretary of State jointly under section 121 of this Act; or
  - (b) may agree that the consideration of objections and representations relating to the withdrawal and the making of a report to the Secretary of State shall be delegated to any of those committees appearing to them to be principally concerned;
- and references in sections 121 and 122 of this Act to a committee and to the appropriate Area Committee shall be read accordingly.
- (3) Section 54(1) of the 1962 Act (advance information about railway and shipping closures) shall apply in relation to plans of the Railways Board for withdrawals of services (in the event of securing the necessary revocation or variation of the relevant bus service conditions) as it applies in relation to the Board's plans for closures.
- (4) The duty of the Central Committee and of each Area Committee (other than the London Regional Passengers' Committee) under section 56(4) of the 1962 Act (duty to consider and make recommendations with respect to certain matters) shall apply to any matter affecting bus substitution services as it applies to any matter affecting the services and facilities provided by the Railways Board.
- (5) References in sections 40 and 41 of the London Regional Transport Act 1984 (which deal with the functions of the London Regional Passengers' Committee) to services and facilities provided by the Railways Board or any subsidiary of theirs shall include references to bus substitution services.
- (6) Nothing in section 56(4) of the 1962 Act or section 40(4) of the London Regional Transport Act 1984, as it has effect by virtue of subsection (4) or (5) above in relation to matters affecting bus substitution services, shall entitle any committee to consider the charges made for any bus substitution service, or to consider any question relating to a withdrawal of service except as provided by section 121 of this Act.
- (7) Section 56(13) of the 1962 Act (public hearings) shall apply in relation to hearings for the purposes of section 121(3) of this Act as it applies in relation to hearings for the purposes of subsection (9) of section 56 (objections to closures).
- (8) In section 54(5) of the 1968 Act (power of Secretary of State to impose conditions in consenting to a closure)—
- (a) at the beginning of paragraph (b) there shall be inserted the words " subject to section 119(4) of the Transport Act 1985 ";
  - (b) in paragraph (c), for the words from " as to the provision " to the end of the paragraph there shall be substituted the words " requiring the Railways Board to provide or (as the case may be) secure the provision of alternative services ; and ";
  - (c) in paragraph (d), the words from " and to the Bus Company " to " Scottish Group " shall be omitted ; and
  - (d) in the words following paragraph (d), the words from " or, where " to " jointly " and the words from " or, as the case may be " to the end shall be omitted.

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(9) Subsection (6) of that section shall be omitted, and in subsection (7), for the words " subsections (5) and (6) " there shall be substituted the words " subsection (5) ".

(10) In this section " closure " has the same meaning as in section 119 of this Act.

#### **124 Reimbursement of Board's expenses in securing bus substitution services**

- (1) The Secretary of State may in respect of any period make grants to the Railways Board of such amounts as appear to him to be requisite for reimbursing the Board in respect of the net costs during that period of securing the provision of bus substitution services.
- (2) The amount of those costs during any period shall be taken to be an amount equal to the difference between—
  - (a) the reduction in financial burden of the Board; and
  - (b) the reduction in revenue of the Board;
 if the Board were not to secure the provision of those services during that period.
- (3) Grants under this section require the approval of the Treasury and may be made subject to such conditions as the Secretary of State may, with the approval of the Treasury, think fit.

#### *The Disabled Persons Transport Advisory Committee*

#### **125 The Disabled Persons Transport Advisory Committee and Secretary of State's guidance**

- (1) There shall be established in accordance with this section a body to be known as the Disabled Persons Transport Advisory Committee.
- (2) The Committee shall consist of—
  - (a) a chairman appointed by the Secretary of State ; and
  - (b) not less than ten, nor more than twenty, other members appointed by the Secretary of State after consultation with such bodies as appear to him to be representative of the interests of persons likely to be significantly concerned with matters within the competence of the Committee.
- (3) The Secretary of State shall, so far as is reasonably practicable, secure that at all times at least half of the membership of the Committee consists of persons who are disabled.
- (4) The Secretary of State may appoint one or more members of the Committee to be deputy chairman or (as the case may be) deputy chairmen of the Committee.
- (5) It shall be the duty of the Committee to consider any matter, relating to the needs of disabled persons in connection with public passenger transport, which is referred to them by the Secretary of State or which they think it appropriate to consider without such a reference and to give such advice to the Secretary of State on any matter which they have considered as they think appropriate.
- (6) The Committee shall make an annual report to the Secretary of State, who shall lay a copy of it before each House of Parliament.
- (7) The Secretary of State shall from time to time issue guidance as to measures that may be taken with a view to—

- (a) making access to vehicles used in the provision of public passenger transport services by road easier for disabled persons; and
  - (b) making such vehicles better adapted to the needs of disabled persons.
- (8) The Secretary of State shall consult the Committee before issuing any such guidance.
- (9) Schedule 5 to this Act shall have effect with respect to the Committee.

*Provisions supplementary to Parts I and II*

**126 Application of sections 52 and 56 of the 1981 Act**

- (1) The power under section 52(1) of the 1981 Act (fees for grant of licences, etc.) to prescribe fees chargeable by traffic commissioners shall apply in relation to fees so chargeable in respect of—
- (a) applications for the registration of services under section 6. of this Act and for the variation of such registrations ;
  - (b) the issue of any documents issued in accordance with regulations under that section with respect to registrations under that section;
  - (c) applications for, and the grant of, permits under section 19 or 22 of this Act; and
  - (d) applications for, and the grant of, London local service licences.
- (2) Subsection (2) of that section (power of traffic commissioners to decline to proceed until any fee or instalment of a fee is paid) shall accordingly apply as if subsection (1) above were included in subsection (1) of that section; and for that purpose the references in subsection (2) of that section to licences shall include references to permits.
- (3) Section 56 of the 1981 Act (records of licences) shall apply in relation to—
- (a) registrations under section 6 of this Act;
  - (b) traffic regulation conditions determined under section 7. of this Act; and
  - (c) London local service licences granted under Part II of this Act;
- as it applies in relation to licences granted under that Act.

**127 Offences and legal proceedings**

- (1) Section 65 of the 1981 Act (forgery and misuse of documents) shall apply to the following documents, namely—
- (a) a permit under section 19 or 22 of this Act; and
  - (b) a London local service licence.
- (2) Section 66 of that Act (false statements to obtain licence, etc.) shall apply in relation to a false statement for the purpose of obtaining the grant of any such permit or licence as it applies in relation to a false statement for the purposes there mentioned.
- (3) Section 67 of that Act (penalty for breach of regulations under that Act) shall have effect as if Parts I and II of this Act were contained in that Act.
- (4) The defence provided by section 68(3) of that Act (that the person charged took all reasonable precautions and exercised all due diligence to avoid the commission of an offence under certain provisions of that Act) shall apply in relation to an offence under

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any of the following provisions of this Act, that is to say, sections 23(5), 30(2), 35(6) and 38(7).

- (5) The provisions of that Act mentioned in subsection (6) below shall apply in relation to an offence, or (as the case may be) in relation to proceedings for an offence, under Part I or II of this Act as they apply in relation to an offence, or in relation to proceedings for an offence, under Part II of that Act.
- (6) Those provisions are—
  - section 69 (restriction on institution in England or Wales of proceedings for an offence under Part II);
  - section 70 (duty to give information as to identity of driver in certain cases);
  - section 71 (evidence by certificate in proceedings in England or Wales for an offence under Part II);
  - section 72 (proof in summary proceedings in England or Wales of identity of driver of vehicle); and
  - section 74 (offences under Part II committed by companies).
- (7) Section 75 of that Act (destination of fines in respect of certain offences committed in Scotland) shall have effect as if Part I of this Act were contained in provisions of that Act preceding section 75.

## **128 Further supplementary provisions**

- (1) The provisions of the 1981 Act mentioned in subsection (2) below shall have effect as if Parts I and II of this Act were contained in that Act.
- (2) Those provisions are—
  - sections 76 and 77 (power of Secretary of State to hold inquiries for the purposes of that Act and general provisions as to inquiries so held); and
  - section 85 (nothing in that Act to authorise a nuisance).

### *General supplementary provisions*

## **129 Transfer schemes**

- (1) This section applies to any scheme under section 50(2), 59, 61(9) or 68 of this Act (referred to below in this section as a transfer scheme).
- (2) A transfer scheme may define the property, rights and liabilities to be transferred by the scheme—
  - (a) by specifying the property, rights or liabilities in question; or
  - (b) by referring to all the property, rights and liabilities comprised in the whole or any specified part of the transferor's undertaking;

(or partly in one way and partly in the other) and may contain such supplementary, incidental and consequential provisions as may appear to the authority making the scheme to be necessary or expedient (including in particular, but without prejudice to the generality of that, provision with respect to the consideration to be provided by the transferee for any transfer under the scheme).
- (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 section 50(4), 59(7), 61(11) or 68(7) of this Act; and each of those provisions 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 transfer scheme in question ; 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) The Secretary of State may by order make modifications in Schedule 4 for the purposes of its application to transfers under section 50(4), 59(7), 61(11) or 68(7) of this Act.

### **130 Corporation tax and capital gains tax**

- (1) Section 16(1)(a) of the Finance Act 1970 (which excludes precept income and grants in computing the profits of a Passenger Transport Executive chargeable to corporation tax) shall not apply with respect to any accounting period beginning on or after the passing of this Act.
- (2) In computing for the purposes of the Corporation Tax Acts the profit or loss of a Passenger Transport Executive for any accounting period beginning on or after the passing of this Act, the loss of any earlier accounting period shall be computed as if section 16(1)(a) of the Finance Act 1970 had not been enacted.
- (3) For the purposes of the Capital Gains Tax Act 1979, the transfer under section 59(8) or section 85(4) of this Act of any asset from a Passenger Transport Executive to a Passenger Transport Authority shall be deemed to be for a consideration such that no gain or loss accrues to the Executive ; and Schedule 5. to that Act (assets held on 6th April 1965) shall have effect in relation to any asset so transferred as if the acquisition or provision of it by the Executive had been the acquisition or provision of it by the Authority.
- (4) If, under section 59 of this Act, a company is formed by a Passenger Transport Executive and the shares in or securities of that company are subsequently transferred to a Passenger Transport Authority, section 278 of the Income and Corporation Taxes Act 1970 (deemed disposals of assets for capital gains purposes where member leaves group) shall not have effect as respects any of the assets of the company on its ceasing to be a 75 per cent, subsidiary (within the meaning of the Tax Acts) of the Executive.

### **131 Stamp duty**

- (1) Stamp duty shall not be chargeable under section 47 of the Finance Act 1973 in respect of—
  - (a) the formation of a subsidiary of the National Bus Company; or
  - (b) any increase in the capital of such a subsidiary ;if the transaction concerned is certified by the Treasury as satisfying the requirements of subsections (3) and (4) below.
- (2) Stamp duty shall not be so chargeable in respect of the formation of any company in pursuance of section 59(1), 61(8) or 67(1) of this Act, if the formation of the company is certified by the Treasury—
  - (a) as being effected in pursuance of any of those provisions ; and

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- (b) as satisfying the requirements of subsection (4) below.
- (3) A transaction satisfies the requirements of this subsection if it is effected solely for the purpose of facilitating the eventual implementation of any disposal required in pursuance of the National Bus Company's disposal programme under Part III of this Act.
- (4) A transaction satisfies the requirements of this subsection if it is entered into solely in connection with a relevant transfer, takes place on or before the transfer date and does not give rise to an excess of capital.

In this subsection, " relevant transfer " means—

- (a) in a case within subsection (1) above, a transfer to be effected under section 50 of this Act;
  - (b) in a case within subsection (2) above, a transfer to be effected in pursuance of a scheme made under section 59, 61(9) or 68 of this Act.
- (5) For the purposes of subsection (4) above a transaction gives rise to an excess of capital if—
- (a) in a case falling within subsection (1)(a) or (2) above the total issued capital of the subsidiary or (as the case may be) of the company in question exceeds, on the transfer date, the total value of the assets less liabilities transferred; or
  - (b) in a case falling within subsection (1)(b) above the aggregate amount of the increase of issued capital of the subsidiary exceeds, on that date, that total value;
- and in this subsection " issued capital" means issued share capital or loan capital.

- (6) Stamp duty shall not be chargeable—
- (a) on any scheme made under section 50(2) of this- Act or on any scheme or order made under any provision of Part IV of this Act; or
  - (b) on any instrument which is certified to the Commissioners of Inland Revenue by the transferring authority or (as the case may be) by both or all the transferring authorities as having been made or executed in pursuance of Schedule 4 to the 1968 Act as it applies by virtue of any provision of this Act in relation to a transfer in pursuance of any such scheme or order; or
  - (c) on any instrument which is so certified as having been made or executed for the purpose of giving effect to any transfer authorised by section 50(1) or (as the case may be) required under section 59(8) of this Act.
- (7) No such instrument as is mentioned in subsection (6)(b) or (c) above shall be treated as duly stamped unless it is stamped with the duty to which it would but for subsection (6) above be liable or it has, in accordance with the provisions of section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped.

## **132 Operation of vehicles, etc., by partnerships**

Section 58(1) of the 1981 Act (power to modify the provisions of that Act in their application to the operation of vehicles and the provision of services by persons in partnership) shall apply in relation to the provisions of this Act.

### **133 Functions of Passenger Transport Authorities and Executives: supplementary**

- (1) In Part II of the 1968 Act, the references to that Part of that Act or (as the case may be) to that Act mentioned in subsection (2) below shall include references to this Act
- (2) Those references are—
  - (a) the references to that Part of that Act in section 12(2), (3)(d) and (g) (borrowing powers of Executive) and in section 15(5) (expenditure by Authority in performing their functions to be defrayed by Executive); and
  - (b) the reference to that Act in section 12(5)(b) (which refers to rights of priority in respect of any liability assumed by or transferred to an Executive in pursuance of that Act).

### **134 Regulations, rules and orders**

- (1) Section 60 of the 1981 Act (general power to make regulations for purposes of that Act) shall have effect as if Parts I and II of this Act were contained in that Act.
- (2) In that section—
  - (a) in subsection (1) (which, in effect, provides that all regulations authorised under that Act are to be made under that section) the words from " for any purpose " to " generally " and the words from " and regulations under this section " to the end of the subsection shall be omitted;
  - (b) the following subsection shall be inserted after subsection (1)—

“(1A) Regulations made under any provision of this Act may make different provision for different cases to which the regulations apply, and may in particular—

    - (a) make different provision as respects different areas; and
    - (b) make different provision as respects different classes or descriptions of vehicles or as respects the same class or description of vehicles in different circumstances;”;
  - (c) in subsection (2) (which defines " regulations " as meaning regulations under that section), for the words " under this section " there shall be substituted the words " by the Secretary of State "; and
  - (d) subsection (3) (which excepts certain provisions of that Act from being included in references to that Act in that section and is unnecessary in view of the amendments made above in this section) shall be omitted.
- (3) The power to make regulations under that section, as it applies by virtue of this section, shall extend to any of the following matters—
  - (a) applications for, and the issue of, permits under section 19 or 22 of this Act; and
  - (b) the issue of copies of such permits in the case of permits lost or destroyed.
- (4) The Secretary of State may make regulations under this section for the purpose of carrying the provisions of this Act (apart from Parts I and II) into effect.
- (5) Regulations or rules made under any provision of this Act (other than one contained in Part I or II), and any order made by the Secretary of State under any provision of this Act (including one so contained), may make different provision for different cases to which those regulations or rules or (as the case may be) to which that order applies, and may in particular make different provision as respects different areas.

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### **135 Procedure for making regulations, rules and orders**

- (1) Section 61 of the 1981 Act (procedure for making regulations under that Act) shall have effect as if Parts I and II of this Act were contained in that Act; and in subsection (2) of that section (duty to consult before making regulations under section 59 or 60 of that Act) the words " section 59 or 60 of " shall be omitted.
- (2) Any power of the Secretary of State—
  - (a) to make regulations or rules under any provision of this Act (other than one contained in Part I or II); or
  - (b) to make an order under any provision of this Act (including one so contained); shall be exercisable by statutory instrument.
- (3) Subject to subsection (4) below, any statutory instrument containing any such regulations, rules or order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subsection (3) above does not apply to a statutory instrument containing an order under section 46, 52(5), 53(1), 85 or 140(2) of this Act.

### **136 Directions**

- (1) It shall be the duty of any person to whom the Secretary of State gives directions under this Act to give effect to those directions.
- (2) Any direction given by the Secretary of State under any provision of this Act (including a direction specifying a period or date for any purposes of Part IV of this Act) may be varied or revoked by a subsequent direction given under that provision.
- (3) Any direction given by the Secretary of State under this Act shall be in writing.

### **137 General interpretation**

- (1) In this Act, unless the context otherwise requires—
  - " the 1962 Act " means the Transport Act 1962 ;
  - " the 1972 Act " means the Local Government Act 1972 ;
  - " the 1968 Act " means the Transport Act 1968 ;
  - "the 1981 Act" means the Public Passenger Vehicles Act 1981;
  - "body" means a body of persons, whether corporate or unincorporate;
  - " bus service condition " has the meaning given by section 119(4) of this Act;
  - " bus substitution service " has the meaning given by section 119(1) of this Act ;
  - " employees share scheme " means a scheme for encouraging or facilitating the holding of shares or debentures in a company by or for the benefit of—
    - (a) the bona fide employees or former employees of the company or of a subsidiary of the company; or
    - (b) the wives, husbands, widows, widowers or children or step-children under the age of eighteen of such employees or former employees ;
  - " equity share capital " has the meaning given in the Companies Act 1985;



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" excursion or tour " means a service for the carriage of passengers by road at separate fares on which the passengers travel together on a journey, with or without breaks, from one or more places to one or more other places and back ;

" functions " includes powers, duties and obligations;

" interest" means, in relation to a company's share capital of any description, a beneficial interest (whether held directly or through nominees or subsidiaries) in that share capital;

" liability " includes an obligation ;

" local service " has the meaning given by section 2 of this Act;

" London " means the administrative area of Greater London as for the time being constituted ;

" London local service " has the meaning given by section 34(1) of this Act;

" pension", in relation to a person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes—

(a) a gratuity so payable ;

(b) a return of contributions to a pension fund, with or without interest on or any other addition to those contributions; and

(c) any sums payable on or in respect of the death of that person;

" pension rights " includes, in relation to any person, all forms of right to or eligibility for the present or future payment of a pension, and any expectation of the accruer of a pension under any customary practice, and includes a right of allocation in respect of the present or future payment of a pension ;

" prescribed " means prescribed by regulations ;

" public passenger transport services" has the meaning given by section 63(10)(a) of this Act;

"the Railways Board " means the British Railways Board established under section 1 of the 1962 Act;

" regulations " means regulations made by the Secretary of State;

" securities ", in relation to a body corporate, means any shares, stock, debentures, debenture stock, and any other security of a similar nature, of the body corporate;

" social services functions " means functions which are social services functions for the purposes of the Local Authority Social Services Act 1970 ;

" social work functions " means functions which are social work functions for the purposes of the Social Work (Scotland) Act 1968;

" the standard scale " has the meaning given by section 75 of the Criminal Justice Act 1982 ;

" stopping place " means, in relation to any service or part of a service, a point at which passengers are (or, in the case of a proposed service, are proposed to be) taken up or set down in the course of that service or part;

" subsidiary " means, in relation to any body corporate, a body corporate which is a subsidiary of the first-mentioned body corporate as defined by section 736 of the Companies Act 1985 (taking references in that section to a company as being references to a body corporate);

" traffic area " means a traffic area constituted for the purposes of the 1981 Act, and section 80 of that Act shall apply to references in this Act to the Metropolitan Traffic Area;

" trunk road " has the meaning given by section 329 of the Highways Act 1980 or, as respects Scotland, section 151 of the Roads (Scotland) Act 1984 ;

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" wholly-owned subsidiary" means a subsidiary all the securities of which are owned by a body corporate of which it is a subsidiary, or by one or more other wholly-owned subsidiaries of that body, or partly by that body and partly by any wholly-owned subsidiary of that body;

and the expressions listed in subsection (2) below have the same meaning as in the 1981 Act.

- (2) Those expressions are—
- " company ";
  - " contravention ";
  - " fares ";
  - " modification ";
  - " operator " (in references to the operator of a vehicle);
  - " operating centre " ;
  - " PSV operator's licence " ;
  - " public service vehicle " ;
  - " road ";
  - " statutory provision " ; and
  - " traffic commissioner ".
- (3) References in this Act to a vehicle's being used for carrying passengers for hire or reward shall be read in accordance with section 1(5) of the 1981 Act.
- (4) References in this Act to agreements providing for service subsidies shall be read in accordance with section 63(10)(b) of this Act.
- (5) References in this Act to Passenger Transport Authorities and Executives and to passenger transport areas are references respectively to the Passenger Transport Authorities and Executives, and to passenger transport areas, for the purposes of Part II of the 1968 Act
- (6) References in this Act, in relation to a bus substitution service, to the withdrawal of service shall be read in accordance with section 120(1) of this Act (and references to a withdrawal of service or to withdrawals of service have a corresponding meaning).
- (7) For the purposes of this Act the operator of a passenger transport service of any description is the person, or each of the persons, providing the service; and for those purposes the operator of a vehicle being used on a road for the carriage of passengers for hire or reward at separate fares shall be taken to be providing the service provided by means of the vehicle unless he proves that the service is or forms part of a service provided not by himself but by one or more other persons.
- (8) For the purposes of this Act an interest in a company's equity share capital is a controlling interest if it subsists in more than half in nominal value of that capital.

### **138 Expenses and receipts**

The following are authorised by this section—

- (a) the payment out of money provided by Parliament of any expenditure incurred by the Secretary of State under section 54(4) of or paragraph 7 of Schedule 4 to this Act or in making grants under section 108, 109 or 124 of this Act;

- (b) any increase in payments out of money so provided arising from any increase in administrative expenses of the Secretary of State or the expenses of local authorities attributable to the provisions of this Act; and
- (c) any increase attributable to this Act in the sums payable into the Consolidated Fund by virtue of section 52(3) or 75 of the 1981 Act (fees received by traffic commissioners and certain fines to be paid into the Consolidated Fund).

### **139 Transitional provisions, savings, amendments, repeals and revocation**

- (1) This Act shall have effect subject to the transitional provisions and savings set out in Schedule 6 to this Act.
- (2) The enactments mentioned in Schedule 7 to this Act shall have effect subject to the amendments specified in that Schedule (which are minor amendments and amendments consequential on the provisions of this Act).
- (3) The enactments mentioned in Schedule 8 to this Act (which include certain provisions which are already spent) are repealed to the extent specified in the third column of that Schedule.
- (4) Without prejudice to section 13 of this Act, the Secretary of State may, for the purpose of taking account of any of the provisions of Part I of this Act, by order modify or repeal any provision made by any local Act passed before the commencement of this subsection.
- (5) Paragraph 4(2) of the Schedule to the Restrictive Trade Practices (Services) Order 1976 is revoked.

### **140 Short title, commencement and extent**

- (1) This Act may be cited as the Transport Act 1985.
- (2) This Act (apart from this section, section 58 of this Act and paragraph 12 of Schedule 6 to this Act) shall come into force on such day or days as the Secretary of State may by order appoint, and different days may be appointed for different purposes (including different purposes of the same provision).
- (3) An order under subsection (2) above may contain such transitional provisions and savings (whether or not involving the modification of any statutory provision) as appear to the Secretary of State necessary or expedient in connection with the provisions brought (wholly or partly) into force by the order.
- (4) The following provisions of this Act do not extend to Scotland, that is to say—
  - sections 10 and 11;
  - Part II; and
  - section 102.
- (5) This Act, with the exceptions mentioned in subsection (6) below, does not extend to Northern Ireland.
- (6) Those exceptions are—
  - section 114(1)(a) and (2); and
  - section 115.