



Transport Act 1985

1985 CHAPTER 67

PART IV

LOCAL PASSENGER TRANSPORT SERVICES

Passenger transport in other areas

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.

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- (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 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

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(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.