

# LOCAL TRANSPORT ACT 2008

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## EXPLANATORY NOTES

### COMMENTARY

#### **Part 3: Bus Services**

#### ***Section 44: Quality contracts: application of TUPE***

129. This section inserts a new section 134B into the TA 2000. Subsection (3) of section 134B provides that two situations, described in subsections (1) and (2) of that new section, shall be regarded as “relevant transfers” for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“the TUPE Regulations”). Subsection (5) of that section provides that sections 257 and 258 of the Pensions Act 2004, and any regulations made under those provisions, apply to a relevant transfer that takes place by virtue of section 134B in the same way as they do to a relevant transfer within the meaning of the TUPE Regulations.
130. Inserted section 134B also provides that the Secretary of State may make provision in regulations about how such transfers are to operate and the procedures to be followed, including provision requiring existing operators who will be affected by the scheme to supply the necessary information about relevant employees. There are provisions for administrative sanctions against operators who fail to supply that information. A new criminal offence of knowingly or recklessly supplying false or misleading information in response to a requirement imposed on an existing operator by virtue of this section is also created.
131. The Secretary of State is also empowered to make regulations to secure “pension protection” for “transferring employees”, as defined in subsection (8) of section 134B. Subsection (9) requires the Secretary of State to exercise that power to make regulations containing specified protection for “transferring original employees”, but this obligation does not preclude the Secretary of State from making regulations to secure additional protections.