

1973 No. 1730

TRANSPORT

**The West Midlands Passenger Transport Area
(Adaptation of Enactments and Instruments) Order 1973**

<i>Made - - - -</i>	17th October 1973
<i>Laid before Parliament</i>	29th October 1973
<i>Coming into Operation</i>	19th November 1973

The Secretary of State for the Environment hereby makes this Order in exercise of his powers under section 202(4) and (5) of the Local Government Act 1972(a) and of all other enabling powers:—

Citation and commencement

1. This Order may be cited as the West Midlands Passenger Transport Area (Adaptation of Enactments and Instruments) Order 1973, and shall come into operation on 19th November 1973.

Interpretation

2.—(1) In this Order, unless the context otherwise requires—

“the Act of 1968” means the Transport Act 1968(b);

“the Act of 1972” means the Local Government Act 1972;

“the additional undertaking” means the Coventry Corporation road passenger transport undertaking (known as Coventry Corporation Transport);

“the Designation Order” means the West Midlands Passenger Transport Area (Designation) Order 1969(c);

“the Executive” means the West Midlands Passenger Transport Executive;

“the operating authority” means the existing Coventry City Council;

“public service vehicle” has the same meaning as in the Road Traffic Act 1960(d);

“the Railway Passenger Services Order” means the West Midlands Passenger Transport Area (Railway Passenger Services) Order 1971(e);

“statutory provision” means a provision contained in, or in an instrument made under an Act;

“the successor authority”, in relation to the additional undertaking, means the council of the new district which comprises the whole or the major part of the area within which, immediately before 1st April 1974, the additional undertaking was being carried on;

(a) 1972 c. 70.

(c) S.I. 1969/97 (1969 I, p. 310).

(e) S.I. 1971/1115.

(b) 1968 c. 73.

(d) 1960 c. 16.

“the Transfer Order” means the West Midlands Passenger Transport Area (Transfer of Undertakings) Order 1969(a).

(2) Except where the context otherwise requires, any reference in this Order to any enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment.

(3) The Interpretation Act 1889(b) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

Existing Passenger Transport Executive to become Executive for Metropolitan County

3.—(1) The West Midlands Passenger Transport Executive who were established under the Designation Order shall on 1st April 1974 become the Passenger Transport Executive for the County of West Midlands and their functions shall on and after that date apply as respects the area of that county as they applied before that date as respects the area designated by the Designation Order.

(2) The persons who immediately before 1st April 1974 are the Director General and other members of the Executive shall continue to hold office on and after that date in accordance with the terms of their appointments until such appointments are terminated or the terms thereof varied in accordance with the provisions applicable thereto.

(3) Nothing in this Order shall affect the validity of anything done by or to or in relation to the Executive before 1st April 1974.

Dissolution of Existing Passenger Transport Authority

4.—(1) On 1st April 1974 the Passenger Transport Authority established in accordance with the Designation Order shall be dissolved and all property, rights and liabilities of that Authority shall be transferred to and vest in the County Council of West Midlands (who by virtue of section 202 of the Act of 1972 become on that day the Passenger Transport Authority for the area of the County of West Midlands).

(2) The dissolution of the said Passenger Transport Authority as aforesaid shall not affect the validity of anything done by or to or in relation to that Authority before 1st April 1974, and insofar as any such thing has continuing effect on and after that date references to that Authority in any instrument or other document relating thereto shall be construed on and after that date as references to the County Council of West Midlands in their capacity as Passenger Transport Authority.

Additional Undertaking—Transfer of powers and duties

5.—(1) Subject to paragraph (2) of this Article and to Article 7 below, all the powers and duties which immediately before 1st April 1974 were the powers and duties conferred or imposed on the operating authority by or under any Act for the purposes of or in connection with the additional undertaking shall on that date be transferred to and become powers and duties of the Executive.

(2) Paragraph (1) above shall not apply in relation to the powers and duties of the operating authority as respects the provision of superannuation or other pension benefits for or in respect of persons who are or have been employed by them.

(a) S.I. 1969/1175.

(b) 1889 c. 63.

Additional Undertaking—Modification of statutory provisions

6.—(1) Subject to the provisions of this Article and of Article 7 below, any statutory provision which confers or imposes, or which otherwise relates to, any such power or duty as is transferred to the Executive under Article 5 above shall have effect, as respects anything falling to be done on or after 1st April 1974, as if any reference therein (however worded and whether expressed or implied) to the operating authority were construed—

- (a) in a case where the statutory provision relates solely to the additional undertaking, as a reference to the Executive, and
- (b) in a case where the statutory provision relates to the additional undertaking and to other activities of the operating authority, as including a reference to the Executive.

(2) Where by reason of this Order any power conferred by a local statutory provision to make byelaws or other regulations in relation to the additional undertaking is transferred to the Executive, any byelaws or regulations made in exercise of that power and in force immediately before 1st April 1974 shall have effect on and after that date as if they had been made by the Executive.

(3) No local statutory provision with respect to the financial duties, the application of revenue, the borrowing powers or the accounts of the operating authority in relation to the additional undertaking shall apply to the Executive, and no local statutory provision shall have effect so as to require the Executive to keep separate accounts or records for the additional undertaking, or to use particular facilities or assets for the purpose only of such undertaking, or otherwise to retain the additional undertaking as a separate undertaking.

(4) No local statutory provision which immediately before 1st April 1974 has effect as respects the additional undertaking so as to—

- (a) impose a prohibition on the manufacture of vehicles by the operating authority, or
- (b) prohibit or restrict the operation by the operating authority of public service vehicles on roads outside the area of that authority, or require the consent of the Secretary of State or of the relevant local or highway authority to, or to the manner of, such operation, or provide for the termination of such operation in certain events, or
- (c) require the operating authority to make to the highway authority for any road on which there is being, or is to be, operated a service provided by the additional undertaking, a contribution towards the cost of the maintenance, adaptation or improvement of that road so that it can be used or prepared for use by the service in question, or
- (d) prohibit the carriage of goods on vehicles of that undertaking, or
- (e) limit the discretion of the operating authority as to the fares or rates which they may charge, or as to any other charges which they may demand, for the use of any service or facility provided by the additional undertaking (whether by specifying, or providing for specifying, the fares, rates or charges, or by fixing, or providing for fixing, maximum fares, rates or charges, or otherwise),

shall apply to the Executive, and no local statutory provision which in any other way limits the manner or extent of the operation of the additional undertaking shall have effect on and after 1st April 1974 so as to prevent or restrict the exercise by the Executive of the powers, or the performance by them of the

duties, conferred or imposed on them by Part II of the Act of 1968, but nothing in this paragraph shall—

- (i) affect the application (subject to section 19 of the Act of 1968) of Part III of the Road Traffic Act 1960 or of any condition attached to a road service licence granted under that Act, or
- (ii) affect the application of any order made, or having effect as if made, under the Road Traffic Regulation Act 1967(a), or the application of any other local statutory provision of a similar nature which prohibits, restricts or regulates the use of any road by all vehicles or by all vehicles of any particular class or description, or
- (iii) entitle the Executive to disregard a prohibition or restriction on the use of a particular route by public service vehicles of the additional undertaking in a case where the prohibition or restriction was specifically imposed for the protection of a particular operator of public service vehicles (not being the operating authority) named in the statutory provision imposing the prohibition or restriction, and that operator or a successor in title of his continues to operate such vehicles on that route on and after 1st April 1974, or
- (iv) entitle the Executive to disregard a prohibition on the use of a particular highway or the highways in a particular locality, being a highway or highways which are not maintainable at the public expense by a highway authority, by public service vehicles of the additional undertaking, before obtaining the consent of the person (not being a highway authority) named in the statutory provision imposing the prohibition as the person whose prior consent to such use is requisite.

(5) Where any local statutory provision, which immediately before 1st April 1974 has effect as respects the additional undertaking so as to empower the operating authority—

- (a) to provide and maintain in any highway which is comprised in the route of public service vehicles, or on any land abutting on such a highway, shelters or other accommodation at stopping places on the route for the use of persons intending to travel on such vehicles, or
- (b) to erect and maintain in any such highway barriers or posts for the regulation of persons waiting to enter public service vehicles,

has effect on and after that date so as to empower the Executive to provide and maintain such shelters or other accommodation or to erect and maintain such barriers or posts as aforesaid, then the provisions of sections 5 and 6 of the Local Government (Miscellaneous Provisions) Act 1953(b) (which relate to consents to the exercise of powers to provide omnibus shelters and contain supplementary provisions as to such shelters) shall—

- (i) apply in relation to any exercise by the Executive of the power under the local statutory provision in question as they apply in relation to the exercise by a local authority of the power conferred by section 4 of the said Act of 1953, and
- (ii) have effect as respects anything falling to be done on or after 1st April 1974 in substitution for so much (if any) of that local statutory provision as relates to the matters provided for in the said sections 5 and 6.

(a) 1967 c. 76.

(b) 1953 c. 26.

(6) Any local statutory provision which immediately before 1st April 1974 has effect as respects the additional undertaking so as to empower the operating authority to place on or attach to posts or structures on or in the highway signs, directions or notices relating to the services provided by the undertaking shall have effect on and after that date so as to empower the Executive to place or attach signs, directions or notices relating to any of the services provided by them on or to such posts or structures belonging to the council of the county or the district in which they are situated as well as to other persons, but the Executive shall not exercise such power to place or attach any sign, direction or notice on or to a post or structure without first obtaining the consent of the person to whom the post or structure belongs.

(7) No local statutory provision shall by virtue of this Article apply to any area to which it did not apply immediately before 1st April 1974.

Travel Concessions

7.—(1) Where immediately before 1st April 1974 there are in operation arrangements made by the operating authority for the granting of travel concessions under the Travel Concessions Acts 1955 and 1964^(a) to any category of qualified persons travelling on the public service vehicles of the additional undertaking on any of the routes on which those vehicles then run, then, notwithstanding the provisions of this Order and notwithstanding the transfer of that undertaking to the Executive, on and after 1st April 1974—

(a) the successor authority shall have power under those Acts to defray out of their general rate fund, and

(b) any other local authority shall have power under section 138(2) of the Act of 1968 to contribute to,

the cost of such travel concessions to that category of qualified persons travelling on the public service vehicles of the Executive on that route.

(2) For the purposes of such travel concessions as are mentioned in paragraph (1) above, on and after 1st April 1974—

(a) the Travel Concessions Acts 1955 and 1964 shall have effect in relation to the successor authority as if—

(i) the successor authority were operating a public service vehicle undertaking and the public service vehicles of the Executive running on the route in question were being run by the successor authority,

(ii) any reference in those Acts to arrangements for granting travel concessions included a reference to arrangements with the Executive for the grant by the Executive of travel concessions and any reference in those Acts to the grant of travel concessions by a local authority included a reference to the grant of travel concessions by the Executive in pursuance of such arrangements, and

(iii) the reference in section 1(5) of the Public Service Vehicles (Travel Concessions) Act 1955 to transferring sums to the credit of the local authority's transport undertaking included a reference to paying such sums to the Executive, and

(b) section 138(2) of the Act of 1968 shall have effect in relation to any other local authority, and section 1(7) of the Public Service Vehicles (Travel Concessions) Act 1955 shall have effect in relation to the Executive, as if the Executive were a local authority.

(a) 1955 c. 26; 1964 c. 95.

(3) Any such arrangements as are referred to in paragraph (1) above which are in operation immediately before 1st April 1974 as respects the additional undertaking shall have effect on that date as an agreement between the successor authority and the Executive whereby, until 31st March 1975 or such earlier date as the successor authority and the Executive otherwise agree, the Executive are required to grant the travel concessions to the category or categories of qualified persons travelling on the Executive's public service vehicles running on the route or routes to which the said arrangements relate and the successor authority are required to pay to the Executive in respect of the cost of those concessions the sum which would have fallen to be borne by the successor authority's general rate fund if the additional undertaking had not been transferred to the Executive but had vested in the successor authority and if that authority had resolved to defray the cost of those concessions in the same manner and on the same basis as the operating authority were defraying them during the period between 1st April 1973 and 1st April 1974.

(4) Nothing in this Article shall entitle the successor authority to defray out of their general rate fund, or any other local authority to contribute to, the cost of travel concessions by the Executive to other categories of qualified persons, or as respects other routes, than those to which the arrangements which are referred to in paragraph (1) above relate, but this paragraph shall be without prejudice to section 138(1) of the Act of 1968.

(5) In this Article the expressions "local authority", "public service vehicle", "qualified persons" and "travel concessions" have the same meaning as in the Travel Concessions Acts 1955 and 1964.

Amendments to Existing Orders

8. The provisions of the Designation Order, the Transfer Order and the Railway Passenger Services Order shall on and after 1st April 1974 have effect subject to the amendments specified respectively in Parts I, II and III of the Schedule to this Order.

Signed by authority of the Secretary of State.

17th October 1973

John Peyton,
Minister for Transport Industries,
Department of the Environment.

SCHEDULE

AMENDMENTS TO EXISTING ORDERS UNDER PART II OF THE TRANSPORT ACT 1968

Part I—The Designation Order

Article 2(1). The definition of “the constituent councils” shall be deleted.

For the definitions of “the Act of 1933”, “the Authority”, and “the designated area” the following definitions shall be substituted:—

“the Act of 1972” means the Local Government Act 1972;

“the Authority” means the County Council of West Midlands;

“the designated area” means the County of West Midlands.

Articles 3 to 15 inclusive shall be revoked.

Article 17(2). For the reference to paragraphs 1 to 5 of Part V of Schedule 3 to the Act of 1933 (meaning thereby the Local Government Act 1933(a)) there shall be substituted a reference to Part VI of Schedule 12 to the Act of 1972.

Article 18. For Article 18 the following shall be substituted:—

“Application of certain enactments relating to local authorities, etc.

18.—(1) The provisions of sections 94 to 98 and 105 of the Act of 1972 (which relate to the disability of members of local authorities for taking part in the consideration or discussion of, or for voting on, any question with respect to contracts, proposed contracts or other matters in which they have a pecuniary interest) shall apply to members of the Executive or of any committee or sub-committee of the Executive as they apply to members of local authorities or of any committees or sub-committees of such authorities, but so that in such application the said provisions shall have effect as if—

(a) they referred only to contracts and proposed contracts and did not extend to other matters,

(b) subsection (3) was omitted from section 94 and subsections (1) to (3) were omitted from section 97 of the said Act of 1972, and

(c) in section 96 of the Act of 1972 there were substituted for references to the proper officer of the authority references to the Secretary of the Executive.

(2) Section 117 of the Act of 1972 (which relates to the disclosure by officers of local authorities of their interest in contracts or proposed contracts) shall apply in relation to officers and servants of the Executive as it applies in relation to officers and servants of local authorities.

(3) Section 140 of the Act of 1972 (which relates to insurance by local authorities against accidents to members) shall apply to the Executive as it applies to a local authority.

(4) Section 223 of the Act of 1972 (which relates to the appearance of local authorities in legal proceedings) and paragraph 20 of Schedule 13 to that Act (which relieves lenders from making certain enquiries) shall apply in relation to the Executive as they apply in relation to a local authority.

(5) Section 144(2)(a) of the Road Traffic Act 1972(b) (which provides that the requirements of section 143 of that Act as to users of motor vehicles being insured or secured against third party risks are not to apply to a vehicle owned by any such local authority as is mentioned in the said subsection (2)(a)) shall apply to a vehicle owned by the Executive, or by any subsidiary of the Executive, as it applies to a vehicle owned by any local authority so mentioned.”

Article 19(1) and (2). The references to the Authority shall be deleted.

Article 20. The references to the Authority shall be deleted.

(a) 1933 c. 51.

(b) 1972 c. 20.

Article 22. The references to the Authority shall be deleted.

Article 23. The references to the Authority and to paragraph 11 of Schedule 3 shall be deleted.

Schedules 1 to 3 shall be revoked.

Part II—The Transfer Order

Article 2(1). For the definition of “the Authority” the following shall be substituted:—
“the Authority” means the County Council of West Midlands.

Part III—The Railway Passenger Services Order

The reference to the West Midlands Passenger Transport Area shall be construed as a reference to the County of West Midlands.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes provision for the existing West Midlands Passenger Transport Executive to become on 1st April 1974 the Passenger Transport Executive for the metropolitan county of West Midlands, for the dissolution on that date of the existing West Midlands Passenger Transport Authority and for the vesting of the property, rights and liabilities of that Authority on that date in the County Council of West Midlands (Articles 3 and 4).

Provision is also made for the transfer to the Executive on the 1st April 1974 of the powers and duties of Coventry City Council in connection with their road passenger transport undertaking (Article 5), for the modification of statutory provisions relating to that undertaking (Article 6) and for enabling certain arrangements with respect to travel concessions on the services of that undertaking to be continued (Article 7).

The existing Orders relating to the West Midlands Passenger Transport Area are amended (Article 8 and the Schedule).

SI 1973/1730
ISBN 0-11-031730-0

