

TRANSPORT (SCOTLAND) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Miscellaneous

Section 40 National travel concession schemes

105. **Section 40** enables the Scottish Ministers, by order, to make national concessionary travel schemes. A national travel concession scheme provides travel concessions to ‘eligible persons’ travelling on ‘eligible services’ on ‘eligible journeys’. These terms are defined in subsection (7). The schemes may be new or they may modify or revoke existing local authority concessionary schemes established under section 93 of the Transport Act 1985.
106. **Section 40(4)** outlines elements which must be included in a national scheme. These include: the rate of the concession; when the concession is available; the right of operators to take part in the scheme and the corresponding right of the Scottish Ministers to require them to take part; payments to operators for providing concessions; the enforcement of participation by operators in the scheme; and appeals against compulsory participation.
107. **Section 40(6)** makes it a criminal offence punishable by a fine not exceeding level 3 (£1000) on the standard scale if an operator fails to comply with an obligation imposed under a scheme.

Section 41 Public Transport Users’ Committee for Scotland

108. **Section 41** places a duty on the Scottish Ministers to establish a Public Transport Users’ Committee for Scotland. Subsection (2) provides details of what may be contained within the order establishing the Committee and subsection (3) enables the Scottish Ministers to provide the funding, staff and accommodation to enable the committee to perform its duties. Subsection (4) amends the Freedom of Information (Scotland) Act 2002 so as to apply to the Public Transport Users’ Committee the duty to disclose information.

Section 42 Functions of the Committee

109. **Section 42(1)** permits the Committee to consider and make recommendations to the Scottish Ministers on any matter relating to public transport services.
110. **Section 42(2)** places the Committee under a duty to consider and make recommendations about any other transport matter when asked to do so by the Scottish Ministers. It is conceivable that the Scottish Ministers will request that the Committee investigates a particular transport concern with a view to producing for the Scottish Ministers a report with recommendations.
111. **Section 42(3)** permits the Scottish Ministers by order to confer, remove, amend or transfer the functions of the committee.

*These notes relate to the Transport (Scotland) Act 2005
(asp 12) which received Royal Assent on 5 August 2005*

112. Subsection (6) provides a definition of public transport services. School transport and any excursions and tours are excluded from the remit of the Committee.

Section 43 Guidance and direction to the Committee

113. Section 43 places a duty on the Committee to have regard to guidance as well as complying with any written direction of the Scottish Ministers in relation to the discharge of its functions.

Section 44 Abolition of requirement on local traffic authority to inform the Scottish Ministers about certain pedestrian crossings

114. This section amends section 23 of the Road Traffic Regulation Act 1984 by removing the requirement in section 23(2)(c) for a local traffic authority to inform the Scottish Ministers in writing before establishing, altering or removing a pedestrian crossing.

Section 45 Modification of Highlands and Islands Shipping Services Act 1960 and loans for transport-related purposes

115. Section 45 modifies the effect of the Highlands & Islands Shipping Services Act 1960 as regards devolved purposes for Scotland. The Act is not affected for reserved purposes. Subsections (3) to (6) amend section 70 of the Transport (Scotland) Act 2001 so as to permit the Scottish Ministers to make loans as well as grants for transport-related purposes.

Section 46 Amendment of procedure for dealing with applications for harbour orders

116. Section 46 amends paragraph 18 of Schedule 3 to the Harbours Act 1964 so as to give the Scottish Ministers greater discretion to determine whether objections raised to an application for a harbour order should be dealt with by means of a public inquiry, a hearing or by written representations.

Section 47 Amendment of procedure where harbour revision orders are made by the Scottish Ministers of their own motion

117. Section 47 amends paragraph 28 of Schedule 3 to the Harbours Act 1964, in relation to harbour revision orders made by the Scottish Ministers of their own motion, in the same way as section 46 amends the procedure for ‘applied for’ harbour orders.

Section 48 Transitional provision for sections 46 and 47

118. Section 48 ensures that the amendments to the harbour orders procedure will not apply to pre-existing applications.

Section 49 Badges for vehicles used for disabled people: change of terminology

119. Section 49 changes the word ‘institution’ to ‘organisation’ in the legislation relating to the disabled person’s badge (known as the Blue Badge Scheme). The change of wording will be reflected on the badge that is affixed to vehicles used for disabled people. The Scottish Executive supported a recommendation, from the Blue Badge review carried out by the Department of Transport. It was felt that “institution” was stigmatising and that “organisation” was preferable.

Section 50 Extension of remit of Bus User Complaints Tribunal

120. Section 50 extends the remit of the Bus User Complaints Tribunal. The Tribunal currently provides users of local bus services (i.e. those bus services which are available to the general travelling public) with a voice in improving local services by the means of a statutory complaints mechanism, for instance where a bus operator has failed to

resolve a complaint in a satisfactory manner. The section extends the remit so as to include scheduled services such as Express and long-distance coach services. This now means that all bus services that are available to the general travelling public are able to be considered.

Section 51 Minor amendments of Transport (Scotland) Act 2001

121. **Section 51(2)** amends section 48 of the Transport (Scotland) Act 2001 to enable local authorities to operate quality partnerships, quality contracts and joint ticketing schemes in the area covered by Strathclyde Passenger Transport Authority.
122. **Section 51(3)** amends section 54(2) of that Act to ensure that the same physical section of a road cannot be subject to more than one road user charging scheme at the same time.
123. **Section 51(4)** amends section 64 of that Act to introduce subsection (1A) to enable the appointment of persons (adjudicators) to determine disputes relating to road user charging and subsection (1B) to provide that local authorities will pay for the adjudicators.
124. **Section 51(5)** rectifies a faulty cross-reference within the Transport (Scotland) Act 2001.
125. **Section 51(6)** amends section 79(1) of that Act so that any guidance issued by the Scottish Ministers, in relation to local transport strategies, can apply to local traffic authorities as well as to local transport authorities.
126. **Section 51(7)** amends section 81(4)(b) of the Transport (Scotland) Act 2001 as a consequence of the changes made to section 64 of that Act as introduced by section 51(4) of this Act.
127. **Section 51(8)** amends section 82(1) of that Act so that guidance, under section 79 of the 2001 Act does not have to be issued before a local transport strategy can be prepared by local traffic authorities as well as by local transport authorities.
128. **Section 51(9)** amends paragraph 5 of schedule 1 to that Act to enable a charging authority to distribute net proceeds from road user charging to any local traffic authority, local transport authority or other person for the purpose of directly or indirectly facilitating the achievement of the policies in the charging authority's local transport strategy.