



# Transport (Scotland) Act 2019

## 2019 asp 17

### PART 10

#### MISCELLANEOUS AND GENERAL

*Health boards: duty to have regard to community benefit in non-emergency patient transport contracts*

**120 Health boards: duty to have regard to community benefit in non-emergency patient transport contracts**

Before entering into a contract for the provision of non-emergency patient transport services, each health board must have regard to the extent to which the contract will improve the economic, social or environmental wellbeing of the board's area in a way additional to the main purpose of the contract in which the requirement is included.

*Health boards: duty to work with community transport bodies*

**121 Health boards: duty to work with community transport bodies**

- (1) In providing non-emergency patient transport services, each health board must work with bodies which provide community transport services in its area.
- (2) But nothing in subsection (1) requires a body which provides community transport services in its area to undertake work for which it does not have the capacity.
- (3) As soon as reasonably practicable after the end of each financial year, each health board must publish a report setting out—
  - (a) the steps it has taken to comply with the duty in subsection (1),
  - (b) its position on the extent to which non-emergency patient transport services in its area have been—
    - (i) effective, and
    - (ii) cost effective,
  - (c) any further action it proposes to take to comply with the duty in subsection (1).

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*Status: This is the original version (as it was originally enacted).*

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- (4) A report under subsection (3) may be published in such manner as the board considers appropriate.
- (5) In this section, “community transport services” means—
- (a) community bus services within the meaning of section 22(1) of the Transport Act 1985, and
  - (b) such other transport services or descriptions of transport services which are provided—
    - (i) by a body concerned for the social and welfare needs of one or more communities, and
    - (ii) without a view to profit by that body or anybody else,
 as the Scottish Ministers may by regulations specify.

*Regional Transport Partnerships: finance*

**122 Regional Transport Partnerships: finance**

- (1) Section 3 of the Transport (Scotland) Act 2005 (regional Transport Partnerships: funding and borrowing) is amended as follows—
- (a) in subsection (4)—
    - (i) after “its” insert “estimated”,
    - (ii) after “year” where it second occurs insert “, and of any outstanding expenses from the financial year previous to that year”,
    - (iii) the “or” immediately following paragraph (b) is repealed,
    - (iv) after paragraph (c) insert—
      - “(d) by funds held by the Transport Partnership that it allocates to meet expenses for that year.”,
  - (b) after subsection (4) insert—
    - “(4A) A Transport Partnership must, having regard to its transport strategy, prepare a forecast of its net expenses for each financial year and provide a copy of the forecast to—
      - (a) its constituent councils, or
      - (b) where there is only one, that council.”.
- (2) Paragraph 28 of schedule 3 of the Local Government (Scotland) Act 1975 (application of schedule to other bodies) is amended as follows—
- (a) in sub-paragraph (1), for “and the Strathclyde Passenger Transport Authority” substitute “, the Strathclyde Passenger Transport Authority and a Transport Partnership created by order under section 1 of the Transport (Scotland) Act 2005”,
  - (b) in sub-paragraph (2)—
    - (i) after “this” insert “Schedule to—”,
    - (ii) the “and” immediately following paragraph (a) is repealed,
    - (iii) after paragraph (b) insert “, and
    - (c) a Transport Partnership.”.
- (3) In section 165(6) of the Local Government etc. (Scotland) Act 1994 (meaning of “authority”), for “or the Strathclyde Passenger Transport Authority” substitute “, the

Strathclyde Passenger Transport Authority or a Transport Partnership created by order under section 1 of the Transport (Scotland) Act 2005”.

*The British Waterways Board*

**123 The British Waterways Board**

- (1) The Transport Act 1962 is amended as follows.
- (2) In section 1 (the British Waterways Board etc.), in subsection (6), for “between one and four” substitute “at least 4 but no more than 9”.

*Certain orders under the Roads (Scotland) Act 1984: objections*

**124 Certain orders under the Roads (Scotland) Act 1984: objections**

- (1) The Roads (Scotland) Act 1984 is amended as follows.
- (2) For section 152(3) there is substituted—
  - “(3) The Scottish Ministers may by regulations prescribe the procedure to be followed when making an order under subsection (2).
  - (3ZA) Regulations under subsection (3) may, in particular, specify—
    - (a) the content of the order, and
    - (b) the manner in which public notification is to be given of any proposal to make an order.”.

*General*

**125 Individual culpability where offending by an organisation**

- (1) This section applies where—
  - (a) an offence in this Act or any regulations made under it is committed by a relevant organisation, and
  - (b) the commission of the offence—
    - (i) involves consent or connivance on the part of a responsible individual, or
    - (ii) is attributable to neglect on the part of a responsible individual.
- (2) The responsible individual (as well as the relevant organisation) commits the offence.
- (3) For the purposes of this section—
  - (a) “relevant organisation” means an organisation listed in the first column of the table in paragraph (c),
  - (b) “responsible individual” means, in relation to a relevant organisation—
    - (i) an individual falling within the corresponding entry in the second column of the table in paragraph (c), or
    - (ii) an individual purporting to act in the capacity of an individual falling within the corresponding entry,
  - (c) the table is as follows—

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<b>Relevant organisation</b>	<b>Individual</b>
Company as mentioned in section 1 of the Companies Act 2006	Director, manager, secretary or other similar officer Member, where the company's affairs are managed by its members
Limited liability partnership	Member
Other partnership	Partner
Any other body or association	Individual who is concerned in the management or control of its affairs.

### **126 Crown application**

- (1) Nothing in this Act or any regulations made under it makes the Crown criminally liable.
- (2) The Court of Session may, on an application by the Lord Advocate, declare unlawful any act or omission for which the Crown would be criminally liable if it were not for subsection (1).
- (3) Subsection (1) does not affect the criminal liability of persons in the service of the Crown.

### **127 Minor and consequential amendments and repeals**

The schedule contains minor and consequential amendments and repeals.

### **128 Regulations**

- (1) Any power of the Scottish Ministers to make regulations under this Act includes power to make—
  - (a) incidental, supplementary, consequential, transitional, transitory or saving provision,
  - (b) different provision for different purposes or areas.
- (2) Regulations under sections 6(4)(a), 6(4)(b), 6(4)(c), 7(4)(b), 52(1), 55(12), 71(5), 78(4) and 107(1) are subject to the affirmative procedure.
- (3) Regulations under section 8(1) or 59(1)—
  - (a) which create a criminal offence are subject to the affirmative procedure,
  - (b) otherwise, are subject to the negative procedure.
- (4) Regulations under section 129(1)—
  - (a) which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure,
  - (b) otherwise, are subject to the negative procedure.
- (5) Otherwise (and subject to subsection (6)) regulations under this Act are subject to the negative procedure.
- (6) This section does not apply to regulations under section 130(2).

### **129 Ancillary provision**

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with or for giving full effect to this Act or any provision made under it.
- (2) Regulations under subsection (1) may modify any enactment (including this Act).

### **130 Commencement**

- (1) This section and sections 128, 129 and 131 come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Regulations under subsection (2) may—
  - (a) include transitional, transitory or saving provision,
  - (b) make different provision for—
    - (i) different purposes,
    - (ii) different areas.

### **131 Short title**

The short title of this Act is the Transport (Scotland) Act 2019.