Transport (Scotland) Act 2019

2019 asp 17

PART 3

BUS SERVICES

Information relating to services

39 Provision of service information when varying or cancelling registration

(1) After section 6 of the Transport Act 1985 Act insert—

"Provision of service information in Scotland

6ZA Provision of service information when varying or cancelling registration

(1) This section applies where an operator of a local service registered under section 6 notifies an affected authority in accordance with regulations under that section that the operator proposes to make an application to vary or cancel the registration.

(2) The affected authority may, within such period as may be prescribed, require the operator to provide them with such information relating to the local service as may be prescribed.

(3) The information that may be prescribed is information relating to—

(a) the number of passengers using the service, the journeys made by those passengers and the fares paid by them, and

(b) the revenue obtained by operating the service.

(4) A requirement for information under subsection (2) may be made only—

(a) for the purposes of the affected authority exercising their functions under section 9A of the Transport Act 1968 or, as the case may be, section 63 of this Act, and

(b) in respect of—

(i) the period of 12 months ending on the day on which the requirement is made, or

(ii) where the service has not operated for the whole of the period of 12 months preceding the day on which the requirement is made, the period of operation up to the day on which the requirement is made.

(5) An operator who is subject to a requirement under this section—

(a) must provide any information required under subsection (2) within such period as may be prescribed,

(b) may, at the same time, provide evidence that the disclosure of some or all of the information it has provided is likely to damage its commercial interests and request that the information in question is not disclosed under section 6ZB(3).

(6) For the purposes of this section and sections 6ZB and 6ZC, "affected authority", in relation to a local service registered under section 6, means a council or a Transport Partnership created by order under section 1 of the Transport (Scotland) Act 2005 which—

(a) have functions under section 9A of the Transport Act 1968 or section 63 of this Act, and

(b) have within their area or, as the case may be, region a stopping place which would be affected by the variation or cancellation of the registration of the service by an operator.

6ZB Provision of service information: extent of permissible disclosure

(1) An affected authority may disclose information received from an operator under section 6ZA only in accordance with this section.

(2) An affected authority may disclose information of the type described in section 6ZA(3)(a)—

(a) to an economic operator in connection with an invitation to submit a tender to provide a supported service to replace or supplement the service being varied or cancelled,

(b) to another affected authority,

(c) to such other persons as may be prescribed.

(3) An affected authority may disclose information of the type described in section 6ZA(3)(b)—

(a) to an economic operator in connection with an invitation to submit a tender to provide a supported service to replace or supplement the service being varied or cancelled,

(b) to another affected authority.

(4) Information disclosed under subsection (3)(a) of this section—

(a) must be aggregated into an annual figure,

(b) must not be disclosed in circumstances where the affected authority have decided to assume the revenue-related risk for the supported service by keeping the revenue obtained by operating the service.

(5) An affected authority which receive information under subsection (2)(b) or (3)(b) must not disclose that information to any other person.

(6) Where an operator has provided evidence and made a request under section 6ZA(5)(b), the affected authority must—

(a) decide whether, on the basis of the evidence submitted, they are satisfied that the disclosure of some or all of the information is likely to cause damage to the commercial interests of the operator, and

(b) notify the operator of their decision.

(7) The affected authority must not disclose any information which is the subject of a request under section 6ZA(5)(b)—

(a) until they have complied with their duties under subsection (6), and

(b) where they decide that they are satisfied that disclosure of the information is likely to cause damage to the commercial interests of the operator.

(8) An affected authority who, without reasonable excuse, disclose information in contravention of this section commit an offence.

(9) An affected authority who commit an offence under subsection (8) are liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(10) Where an offence under subsection (8) committed by an affected authority is proved to have been committed with the consent or connivance of, or to be attributable to the neglect on the part of, a person employed by the authority, the person as well as the authority is guilty of the offence and liable to be proceeded against and punished accordingly.

(11) In this section—

"economic operator" means any person, public entity or group of persons or entities including any temporary association of undertakings that offers to provide local services on the market,

"supported service" means a service which is subsidised under section 9A(4) of the Transport Act 1968 or, as the case may be, section 63(5) of this Act.

6ZC Provision of service information: further provision and consultation

(1) Regulations under this section may make provision for the purposes of giving full effect to sections 6ZA and 6ZB, including, without limit to that generality, provision—

(a) for excluding or modifying the application of section 6ZA in such circumstances as may be specified in the regulations,

(b) about the procedures to be followed by affected authorities and operators, including the manner in which authorities are to require information to be provided,

(c) requiring operators to keep records of such information as may be specified in the regulations,

(d) substituting a different period (or periods) for the period for the time being specified in section 6ZA(4)(b),

(e) about the form and (subject to section 6ZA(3)) content of the information that operators may be required to provide.

(2) Before making regulations under section 6ZA(2) or (5), 6ZB(2) or this section, the Scottish Ministers must consult—

(a) such persons as appear to them to be representative of operators and users of local services,

(b) each council and Transport Partnership created by order under section 1 of the Transport (Scotland) Act 2005 which have functions under section 9A of the Transport Act 1968 or section 63 of this Act, and

(c) such other persons as the Scottish Ministers consider appropriate.”.

(2) In section 39 of the Transport (Scotland) Act 2001 (penalties), in subsection (1), after paragraph (b) insert—

“(ba) failed to comply with a requirement under section 6ZA of the 1985 Act,”.

(3) In section 43 of the Transport (Scotland) Act 2001 (power to obtain information about local services), after subsection (5) insert—

“(5A) For the avoidance of doubt, subsection (5)(f) does not apply if (or to the extent that) the operator was also required to provide the information by the local transport authority as an affected authority under section 6ZA(2) of the 1985 Act (provision of service information when varying or cancelling registration).”.

Commencement Information

I1 S. 39 in force at 28.11.2022 by S.S.I. 2022/332, reg. 2, **sch.**

Changes to legislation:
There are currently no known outstanding effects for the Transport (Scotland) Act 2019, Section 39.