



# Transport (Scotland) Act 2019

## 2019 asp 17

### PART 3

#### BUS SERVICES

##### *Provision of services by local transport authorities*

#### **34 Provision of bus services etc. by local transport authorities**

- (1) In the Transport (Scotland) Act 2001—  
(a) before section 3 (and the italic heading immediately preceding it) insert—

##### **“CHAPTER A1**

##### *Provision of bus services etc. by local transport authorities*

#### **2A Provision of bus services etc. by local transport authorities**

- (1) A local transport authority may provide a service for the carriage of passengers by road using vehicles that require a PSV operator’s licence to do so.
- (2) The local transport authority must be satisfied that the provision of such a service will contribute to the implementation of their relevant general policies.
- (3)”,
- (b) in section 79(1) (guidance), after paragraph (b) insert—  
“(ba) local transport authorities in relation to the exercise of their functions under section 2A of this Act.”.
- (2) Except as provided for in subsection (3), sections 66 to 71, 72(1)(c), 72(2), 72(3)(b) and 72(5)(c) of the Transport Act 1985 are repealed.

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- (3) Sections 66(2) to (7), 67 to 71, 72(1)(c), 72(2), 72(3)(b) and 72(5)(c) of the Transport Act 1985 (and any order made under them) are to continue to have effect in so far as is necessary for the provision of any service or operation of any undertaking that is being provided or operated under or by virtue of those sections or orders on the date subsection (2) comes into force.

*Bus services improvement partnerships*

**35 Bus services improvement partnerships**

- (1) The Transport (Scotland) Act 2001 is amended as follows.
- (2) For sections 3 to 12 (including the italic heading immediately preceding section 3), substitute—

**“CHAPTER 1**

BUS SERVICES IMPROVEMENT PARTNERSHIPS

*Partnership plans and schemes*

**3A Bus services improvement partnership plans**

- (1) A local transport authority may, if they consider it appropriate to do so, make a bus services improvement partnership plan (a “partnership plan”) in relation to the whole or part of their area.
- (2) A partnership plan is a plan that—
- (a) specifies the area and the period to which the plan relates,
  - (b) sets out for the area—
    - (i) an analysis of the local services,
    - (ii) policies relating to the local services,
    - (iii) objectives to be met within the period as regards the quality and effectiveness of the local services provided,
  - (c) describes how the partnership scheme (or schemes) to be made at the same time as the partnership plan (see section 3B) is intended to assist in implementing the policies and meeting the objectives, and
  - (d) describes the intended effect of any such scheme (or schemes) on areas which are adjacent to the plan’s area.
- (3) A partnership plan must also—
- (a) describe the proposals for obtaining the views of users of local services in the area about how well the plan and the partnership scheme (or schemes) are working, and
  - (b) specify how the plan is to be reviewed and the dates by which reviews are to be completed.
- (4) To make a partnership plan a local transport authority must comply with Part 1 of schedule A1.

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### **3B Schemes to implement bus services partnership plans**

- (1) A local transport authority must, at the same time as making a partnership plan, make one or more bus services improvement partnership schemes (a “partnership scheme”) relating to the whole or part of the area to which the plan relates.
- (2) A local transport authority that have made a partnership plan may make such further partnership schemes relating to the whole or part of the area of the partnership plan as they consider appropriate.
- (3) A partnership scheme is a scheme that—
  - (a) specifies the area and the period to which the scheme relates,
  - (b) imposes one or more service standards in relation to the local services that have one or more stopping places in that area, and
  - (c) specifies one or more—
    - (i) facilities to be provided in the area as part of the scheme, or
    - (ii) measures to be taken under the scheme,by the local transport authority.
- (4) A partnership scheme may—
  - (a) provide for the exemption of such local services or such descriptions of local services as the scheme may specify, and
  - (b) specify conditions (if any) as to when such exemptions are to apply.
- (5) A partnership scheme may also include requirements for the taking of actions in order to facilitate the operation of the partnership scheme.
- (6) A partnership scheme may be made only if the local transport authority are satisfied that—
  - (a) the scheme will contribute to the implementation of—
    - (i) the policies set out in the partnership plan to which it relates, and
    - (ii) the authority’s relevant general policies, and
  - (b) the scheme will—
    - (i) bring benefits to persons using local services in the whole or any part of the area to which the scheme relates by improving the quality or effectiveness of those services, or
    - (ii) reduce or limit traffic congestion, noise or air pollution.
- (7) Any specified facility must be provided at specific locations along routes served, or proposed to be served, by local services within the area of the partnership scheme.
- (8) Nothing that a local transport authority are required to provide or secure the provision of by virtue of section 33 or 34 is to be specified as a facility or measure for the purposes of a partnership scheme.
- (9) A partnership scheme must specify how its operation is to be reviewed and the dates by which reviews are to be completed.

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- (10) A partnership scheme may provide for circumstances in which it may be varied or revoked in accordance with the provisions of the scheme (rather than under section 3H or, as the case may be, 3I).
- (11) To make a partnership scheme a local transport authority must comply with Part 1 of schedule A1.

### **3C Partnership schemes: service standards**

- (1) The service standards that a partnership scheme may impose include requirements—
  - (a) in relation to the frequency or timing of particular local services or local services of particular descriptions (a “route service standard”), or
  - (b) in relation to any other matter relating to the standard of service that is to be provided (an “operational service standard”).
- (2) A route service standard may, in particular, determine the frequency or timing allowed in relation to a local service—
  - (a) by reference only to that service,
  - (b) by reference to that service and other local services, taken together.
- (3) An operational service standard may, in particular, impose requirements about—
  - (a) the vehicles which are used to provide services,
  - (b) the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions on services to which the scheme applies,
  - (c) ticketing and the manner in which entitlement to travel may be evidenced,
  - (d) the pricing of multi-operator travel cards,
  - (e) the provision of information to the public about local services,
  - (f) the dates on which the timing of local services may be changed.
- (4) A partnership scheme may not impose service standards in relation to the use of vehicles under permits granted under section 22 of the 1985 Act.
- (5) A service standard imposed by a partnership scheme has effect only in relation to so much of a local service as is provided in the area to which the scheme relates.
- (6) The Scottish Ministers may by regulations define the expression “multi-operator travel cards” for the purposes of this section.

### **3D Route service standards: modification for overprovision**

- (1) This section applies where—
  - (a) a partnership scheme is in operation,
  - (b) a route service standard imposed by the scheme applies to a service registered under section 6 of the 1985 Act, and
  - (c) the local transport authority who made the scheme are satisfied that, due to an increase (or an expected increase) in the number of operators

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registered in respect of the area of the scheme, the service cannot be provided in accordance with the route service standard.

- (2) The local transport authority must modify the route service standard in such manner as is necessary to take account of the number of registered operators (or expected number of such operators) to enable the service to be provided in accordance with the service standard.
- (3) A modification of a route service standard under this section is to be treated as a variation under section 3H of the partnership scheme which imposed the service standard and paragraph 18(3) of schedule 1A applies to the modification as it does to such a variation.
- (4) Without limit to the generality of section 3M, the Scottish Ministers may by regulations make further provision about the modification of route service standards under this section, including, in particular, provision—
  - (a) about the process that a local transport authority must comply with before making a modification under this section,
  - (b) about the circumstances in which a modification may be postponed and the process to be followed to postpone a modification,
  - (c) specifying circumstances in which this section is not to apply.

### **3E Partnership schemes: Scottish Ministers' traffic regulation orders**

- (1) This section applies if, in relation to a proposed partnership scheme or the proposed variation of an existing scheme, the provision of a facility or the taking of a measure requires the making of a traffic regulation order in respect of a road for which the Scottish Ministers are the traffic authority (within the meaning of section 121A of the Road Traffic Regulation Act 1984).
- (2) The partnership scheme may not be made, postponed, varied or revoked unless it is made, postponed, varied or revoked by the local transport authority and the Scottish Ministers acting jointly.

### **3F Effect of partnership plans and schemes**

- (1) If a partnership scheme imposes a service standard in relation to a local service, the operator of the service must comply with the service standard.
- (2) If a partnership scheme requires a local transport authority or, where section 3E applies, the Scottish Ministers, to provide a facility, they must—
  - (a) provide the facility not later than the date specified in the scheme for its provision (subject to the local transport authority postponing its coming into operation under section 3G(1) or 3H(4)),
  - (b) continue to provide the facility for the remainder of the period for which the scheme is in operation.
- (3) If a partnership scheme requires a local transport authority or (where section 3E applies) the Scottish Ministers to take a measure, they must—
  - (a) take the measure not later than the date specified in the scheme for taking it (subject to the local transport authority postponing its coming into operation under section 3G(1) or 3H(4)),

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- (b) continue to take the measure for the remainder of the period for which the scheme is in operation.
- (4) Subsections (2) and (3) do not apply in relation to any period during which the local transport authority are temporarily unable to provide the facility or, as the case may be, take the measure, due to circumstances beyond their control.
- (5) Subsections (2) and (3) do not apply in the case of the Scottish Ministers if they are unable to provide the facility or, as the case may be, take the measure, because of the variation or revocation of a traffic regulation order.
- (6) A local transport authority must secure that—
  - (a) each review of a partnership plan which is required by the plan is carried out in the manner specified in it,
  - (b) each review of the operation of a partnership scheme which is required by the scheme is carried out in the manner specified in it, and
  - (c) each review (whether of a plan or scheme) is completed by the date specified in the plan or scheme as the date for completing that review.

### **3G Postponement of partnership scheme coming into operation**

- (1) A local transport authority may, if they consider it appropriate, decide to postpone the coming into operation of a partnership scheme or any part of it (such as the date by which a service standard must be met or facility provided) by such period as they think fit.
- (2) But the coming into operation of a partnership scheme, or any part of it, must not be postponed by a period or periods which in total exceed 12 months.
- (3) To postpone the coming into operation of a partnership scheme or any part of such a scheme, a local transport authority must comply with paragraphs 9 and 10 of schedule A1.
- (4) The Scottish Ministers may by regulations amend subsection (2) to specify a different total period of postponement than the one for the time being specified there.

### **3H Variation of a partnership plan or scheme**

- (1) A local transport authority may vary—
  - (a) a partnership plan and any related scheme, or
  - (b) a partnership scheme.
- (2) In particular, a partnership plan or scheme may be varied by changing the area to which the plan or scheme relates so that it—
  - (a) includes the whole of the area of another local transport authority (a “prospective authority”), or
  - (b) ceases to include any part of the area of the local transport authority which made the plan or scheme.
- (3) A partnership scheme may be varied only if the local transport authority (and, if applicable, the prospective authority) are satisfied that—
  - (a) the scheme, as varied, will contribute to the implementation of—

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- (i) the policies set out in the partnership plan (or those policies in the plan as proposed to be varied) to which it relates, and
    - (ii) the local transport authority's (and, if applicable, the prospective authority's) relevant general policies, and
  - (b) the scheme, as varied, will—
    - (i) bring benefits to persons using local services in the whole or any part of the area of the scheme (as varied) by improving the quality or effectiveness of those services, or
    - (ii) reduce or limit traffic congestion, noise or air pollution.
- (4) A local transport authority may, if they consider it appropriate, decide to postpone the coming into operation of the variation of a partnership scheme or any part of it by such period as they think fit.
- (5) But the coming into operation of the variation of a partnership scheme, or any part of it, must not be postponed by a period or periods which in total exceed 12 months.
- (6) To—
  - (a) vary a partnership plan or a partnership scheme (otherwise than in accordance with the scheme itself, under section 3D, or when making a franchising framework), a local transport authority (and any prospective authority) must comply with Part 2 of schedule A1, and
  - (b) postpone the coming into operation of such a variation, a local transport authority (and any prospective authority) must comply with paragraphs 19 and 20 of that Part.
- (7) The Scottish Ministers may by regulations amend subsection (5) to specify a different total period of postponement than the one for the time being specified there.

### **3I Revocation of a partnership plan or scheme**

- (1) A local transport authority may—
  - (a) revoke a partnership plan that relates to the whole or any part of their area,
  - (b) revoke a partnership scheme relating to such a plan.
- (2) A local transport authority may not—
  - (a) revoke a partnership plan without also revoking all the schemes relating to it, or
  - (b) revoke all schemes relating to a plan without also revoking the plan.
- (3) To revoke a partnership plan or a scheme (otherwise than in accordance with the scheme itself or when making a franchising framework), a local transport authority must comply with Part 3 of schedule A1.

### **3J Reports on partnership schemes**

- (1) A local transport authority must, in relation to each partnership scheme made by them, for each successive period of 12 months during which the scheme is in operation, prepare and publish a report on the effectiveness of the scheme.

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- (2) For the purposes of subsection (1), the first period is to begin on the date on which the scheme, or any part of it, comes into operation.
- (3) In preparing a report under subsection (1), the local transport authority must—
  - (a) consult the traffic commissioner and such other persons as they consider appropriate for the purposes of assessing the effectiveness of the scheme, and
  - (b) consider any representations made to them (whether as part of the consultation or otherwise) in relation to the effectiveness of the scheme during the period under review.

### **3K Provision of information: bus services improvement partnerships**

- (1) This section applies if a local transport authority are exercising any of the following functions—
  - (a) preparing and making a partnership plan or scheme,
  - (b) reviewing the effectiveness of a partnership plan or scheme, or
  - (c) determining whether and how to vary, or revoke, a partnership plan or scheme.
- (2) The local transport authority may require an operator of a local service in the relevant area to provide them with such relevant information relating to the function being exercised as they may specify.
- (3) The local transport authority must specify the function it is exercising when requiring the provision of relevant information.
- (4) The operator may be required to provide the information—
  - (a) in any form which, having regard to the manner in which the information is kept, it is reasonable to expect the operator to provide, and
  - (b) before the end of such period as may be specified by the local transport authority.
- (5) A local transport authority that have obtained relevant information under this section may only—
  - (a) use the information for the purpose of exercising the function for which it was obtained, and
  - (b) supply the information to a person listed in subsection (6) for use in connection with that function.
- (6) The persons are—
  - (a) a local transport authority,
  - (b) persons providing services to the local transport authority in connection with the function being exercised,
  - (c) where section 3E applies, the Scottish Ministers.
- (7) A person who receives relevant information under subsection (5)(b) must not disclose it to any other person or use it in connection with a purpose other than the specified function.
- (8) A person who, without reasonable excuse, discloses information in contravention of this section commits an offence.



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- (9) A person who commits an offence under subsection (8) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (10) Where an offence under subsection (8) committed by a local transport 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, “relevant information” means information of a description specified in regulations made by the Scottish Ministers.
- (12) Regulations under subsection (11) may specify circumstances in which relevant information (or types of relevant information) may not be required by a local transport authority.

### **3L Multi-authority bus services improvement partnerships**

- (1) Two or more local transport authorities may act jointly to make a partnership plan and scheme (or schemes) under this chapter.
- (2) In those circumstances, unless the context otherwise requires, a reference in this chapter (other than this section) to—
  - (a) a local transport authority, in relation to a partnership plan or a partnership scheme or to a proposed plan or scheme, is a reference to the authorities acting jointly,
  - (b) the area of a local transport authority is a reference to the combined areas of the authorities,
  - (c) the relevant general policies of a local transport authority is a reference to the relevant general policies of each local transport authority.
- (3) Where two or more local transport authorities act jointly to make a partnership plan or scheme, they must continue to act jointly in relation to the plan or scheme in all respects.

### **3M Further provision**

- (1) The Scottish Ministers may by regulations make further provision about—
  - (a) partnership plans and schemes,
  - (b) the procedures to be followed to prepare and make, postpone, vary and revoke a plan or scheme (but see also Part 4 of schedule A1 which confers power on the Scottish Ministers in relation to certain expressions used in those procedures),
  - (c) reviewing and reporting on the operation of a plan and scheme.
- (2) Without limit to that generality, regulations under this section may make provision about—
  - (a) the form and content of a partnership plan or scheme,
  - (b) descriptions of local services which may or must be exempted from a scheme,
  - (c) what may constitute a facility or measure,

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- (d) the conditions that may be specified in a scheme for its variation or revocation,
- (e) the form and content of any notice to be given in connection with a plan or scheme,
- (f) the standards and requirements that a scheme or plan may specify in respect of the accessibility of bus services for disabled persons and persons who have limited mobility.”.

### **36 Procedures for partnership plans and schemes**

- (1) The Transport (Scotland) Act 2001 is amended as follows.
- (2) Before schedule 1 insert—

“SCHEDULE A1  
*(introduced by section 3A)*

BUS SERVICES IMPROVEMENT PARTNERSHIP PLANS AND SCHEMES: PROCEDURES

**PART 1**

MAKING

*Meaning of partnership proposal*

- 1 For the purposes of this Part—
- (a) a reference to a partnership proposal is a reference to a proposal by a local transport authority to make—
    - (i) a partnership plan and scheme (or schemes), or
    - (ii) a partnership scheme (or schemes) in relation to an existing partnership plan,
  - (b) a reference to the area of a partnership proposal is—
    - (i) in a case where the proposal is to make a partnership plan and scheme, a reference to the area to which the proposed plan relates,
    - (ii) in a case where the proposal is to make a new scheme in relation to an existing plan, a reference to the area to which that plan relates.

*Preliminary notice*

- 2 Where a local transport authority intend to prepare a partnership proposal, they must give notice of their intention in such manner as they consider appropriate for bringing the notice to the attention of persons in their area.

*Preparation*

- 3 After giving notice under paragraph 2, the local transport authority must—

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- (a) invite every person who is an operator of a qualifying local service in the area to which the partnership proposal relates (including those who, for whatever reason, become such an operator during the period when the proposal is being prepared) to participate in the preparation of the partnership proposal, and
- (b) in collaboration with such invited persons as wish to participate, prepare the partnership proposal for consultation.

#### *Notice of proposal and period for objections*

- 4 (1) The local transport authority must give notice of the partnership proposal prepared under paragraph 3 to persons who, on the relevant day, are operators of qualifying local services in the area of the partnership proposal.
- (2) A notice under this paragraph must—
- (a) contain full details of the partnership proposal,
  - (b) contain a statement advising of the effect of paragraph 5,
  - (c) state the period within which objections may be made (which may not be less than 28 days).
- (3) In this paragraph, “the relevant day”, in relation to a partnership proposal, means the day before the day on which the local transport authority send out notices in accordance with sub-paragraph (1).

#### *Effect of objections*

- 5 (1) The local transport authority may not progress the partnership proposal and, in particular, may not consult under paragraph 6 if, within the period for objections—
- (a) in a case where the partnership proposal is a proposal to make a partnership plan and scheme (or schemes)—
    - (i) a sufficient number of the persons who are operators of qualifying local services in the area of the partnership proposal object to it being made, or
    - (ii) a sufficient number of the persons who are operators of qualifying local services in the area of the scheme object to it being made, or
  - (b) in a case where the partnership proposal is a proposal to make a scheme (or schemes) in relation to an existing plan, a sufficient number of the persons who are operators of qualifying local services in the area of the scheme object to it being made.
- (2) If the partnership proposal is a proposal to make two or more schemes at the same time, paragraphs (a)(ii) and (b) of sub-paragraph (1) have effect as if references to the scheme were references to the scheme in question.

#### *Notice of, and consultation on, partnership proposal*

- 6 (1) This paragraph applies where, following the period for objections under paragraph 5, a local transport authority are not prevented from consulting.

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- (2) The local transport authority must give notice of the partnership proposal in such manner as they consider appropriate for bringing the notice to the attention of persons in their area.
- (3) A notice under sub-paragraph (2) must—
  - (a) contain full details of the partnership proposal, or
  - (b) state where such details may be inspected.
- (4) After giving the notice, the local transport authority must consult—
  - (a) all operators of local services who, in the opinion of the authority, are likely to be affected by the partnership proposal,
  - (b) such organisations appearing to the authority to be representative of users of local services as they think fit,
  - (c) any other local transport authority or Transport Partnership that the authority consider may be affected by the partnership proposal,
  - (d) the traffic commissioner,
  - (e) the chief constable of the Police Service of Scotland,
  - (f) the Competition and Markets Authority, and
  - (g) such other persons as the authority think fit.

#### *Modifications of partnership proposal*

- 7 (1) This section applies where, following consultation under paragraph 6, a local transport authority consider it appropriate to modify the partnership proposal.
- (2) The local transport authority must give notice of the partnership proposal as modified to persons who, on the relevant day, are operators of qualifying local services in the area to which the partnership proposal as modified relates.
- (3) The notice under sub-paragraph (2) must—
  - (a) contain full details of the partnership proposal as modified,
  - (b) contain a statement advising of the effect of sub-paragraph (4),
  - (c) state the period within which objections may be made (which may not be less than 28 days).
- (4) The local transport authority may not make the partnership proposal (as modified) if, within the period for making objections—
  - (a) in a case where the partnership proposal is a proposal to make a partnership plan and scheme (or schemes)—
    - (i) a sufficient number of the persons who are operators of qualifying local services in the area of the partnership proposal object to it being made,
    - (ii) a sufficient number of the persons who are operators of qualifying local services in the area of the scheme object to it being made, or
  - (b) in a case where the partnership proposal is a proposal to make a scheme (or schemes) in relation to an existing plan, a sufficient

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number of the persons who are operators of qualifying local services in the area of the scheme object to it being made.

- (5) If the partnership proposal (as modified) relates to the making of two or more schemes at the same time, paragraphs (a)(ii) and (b) of sub-paragraph (4) have effect as if the references to the scheme were references to the scheme in question.
- (6) In this paragraph, “the relevant day”, in relation to a partnership proposal which has been modified, means the day before the day on which the local transport authority send out notices relating to the proposal in accordance with sub-paragraph (2).

#### *Making of partnership plan or scheme and giving notice to that effect*

- 8 (1) This paragraph applies where a local transport authority—
  - (a) have consulted on a partnership proposal,
  - (b) if applicable, are not prevented from making the partnership proposal as modified under paragraph 7, and
  - (c) decide to make the partnership proposal (or the proposal as modified).
- (2) The local transport authority may proceed to make the partnership plan and schemes (or schemes) or, as the case may be, scheme (or schemes) relating to an existing plan contained in the partnership proposal.
- (3) But the making of the scheme does not have effect unless, within the period of 14 days beginning with the day after the day on which the local transport authority made the partnership plan and scheme (or schemes) or, as the case may be, scheme (or schemes) relating to an existing plan, the authority give notice of the partnership proposal having been made to—
  - (a) all operators of local services who, in the opinion of the authority, are likely to be affected by it having been made,
  - (b) such organisations appearing to the authority to be representative of users of local services as they think fit,
  - (c) any other local transport authority or Transport Partnership that the authority consider may be affected by the partnership proposal being made,
  - (d) the traffic commissioner,
  - (e) the chief constable of the Police Service of Scotland,
  - (f) the Competition and Markets Authority, and
  - (g) such other persons as the authority think fit.
- (4) The notice must—
  - (a) contain full details of the partnership plan and scheme or, as the case may be, the scheme, that has been made, or
  - (b) state where such details may be inspected.

#### *Consulting on postponing the coming into operation of partnership scheme*

- 9 Where a local transport authority propose to postpone the coming into operation of a partnership scheme (or any part of it), before making a

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decision on whether or not to do so, they must consult all operators of local services who are, in their opinion, likely to be affected by the postponement.

*Postponing the coming into operation of partnership scheme and giving notice*

- 10 (1) This paragraph applies where a local transport authority—
- (a) have consulted on postponing the coming into operation of a partnership scheme (or any part of it), and
  - (b) have decided to postpone the scheme (or any part of it).
- (2) The local transport authority may proceed to postpone the coming into operation of the partnership scheme (or any part of it).
- (3) But the postponement does not have effect unless, within the period of 14 days beginning with the day after the day on which the local transport authority decide to postpone the coming into operation of the partnership scheme (or any part of it), the authority—
- (a) publicise their decision in a manner they consider likely to bring the postponement to the attention of persons likely to be affected by the postponement, and
  - (b) give notice of their decision to—
    - (i) any operator of a local service who is, in the opinion of the authority, likely to be affected by the postponement, and
    - (ii) the traffic commissioner.
- (4) The notice must include a statement of the local transport authority's reasons for deciding to postpone the coming into operation of the partnership scheme (or any part of it).

## PART 2

### VARIATION

*Meaning of local transport authority for the purposes of this Part*

- 11 For the purposes of this Part, unless the context otherwise requires, a reference to a local transport authority includes a reference to a prospective authority (within the meaning of section 3H(2)(a)); and a reference to the area of the local transport authority is to be construed as including that of the prospective authority.

*Preliminary notice*

- 12 Where a local transport authority propose to vary a partnership plan or scheme under section 3H they must give notice of their proposal in such manner as they consider appropriate for bringing the notice to the attention of persons in their area.

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### *Preparation*

- 13 After giving notice under paragraph 12, the local transport authority must—
- (a) invite every person who, at the qualifying time, is (or was) an operator of a qualifying local service in the area of the partnership plan (including those who, for whatever reason, become such an operator during the period when the changes are being prepared) to participate in the preparation of the changes, and
  - (b) in collaboration with such invited persons as wish to participate, prepare the changes for consultation.

### *Notice of draft changes and period for objections*

- 14 (1) The local transport authority must give notice of the changes prepared under paragraph 13 to persons who, at the qualifying time, are (or were) operators of qualifying local services in the area of the partnership plan and, if the changes involve adjusting the area of the plan, the proposed area.
- (2) A notice under this paragraph must—
- (a) contain full details of the changes prepared,
  - (b) contain a statement advising of the effect of paragraph 15,
  - (c) state the period within which objections may be made (which may not be less than 28 days).

### *Effect of objections*

- 15 (1) The local transport authority may not progress the proposed variation and, in particular, may not consult under paragraph 16 if, within the period for objections—
- (a) in a case where the changes prepared under paragraph 13 relate to the proposed variation of a partnership plan, a sufficient number of the persons who are (or were) operators of qualifying local services in the area of the plan at the qualifying time object to it being varied, or
  - (b) in a case where the changes prepared under paragraph 13 relate to the proposed variation of a partnership scheme, a sufficient number of persons who are (or were) operators of qualifying local services in the area of the scheme at the qualifying time object to it being varied.
- (2) If the changes prepared under paragraph 13 relate to the variation of two or more partnership schemes at the same time, sub-paragraph (1)(b) has effect as if references to the scheme were references to the scheme in question.

### *Notice and consultation on changes*

- 16 (1) This paragraph applies where, following the period for objections under paragraph 15, a local transport authority are not prevented from consulting.

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- (2) The local transport authority must give notice of the changes prepared under paragraph 13 in such manner as they consider appropriate for bringing the notice to the attention of persons in their area.
- (3) A notice under sub-paragraph (2) must—
  - (a) contain full details of the changes, or
  - (b) state where such details may be inspected.
- (4) After giving the notice, the local transport authority must consult—
  - (a) all operators of local services who, in the opinion of the authority, are likely to be affected by the proposed variation,
  - (b) such organisations appearing to the authority to be representative of users of local services as they think fit,
  - (c) any other local transport authority or Transport Partnership that the authority consider may be affected by the proposed variation,
  - (d) the traffic commissioner,
  - (e) the chief constable of the Police Service of Scotland,
  - (f) the Competition and Markets Authority, and
  - (g) such other persons as the authority think fit.

#### *Modifications of changes*

- 17 (1) This section applies where, following consultation under paragraph 16, a local transport authority consider it appropriate to modify the changes prepared under paragraph 13.
- (2) The local transport authority must give notice of the changes as modified to persons who are (or were) operators of qualifying local services in the area to which the changes as modified relate at the qualifying time.
- (3) The notice under sub-paragraph (2) must—
  - (a) contain full details of the changes as modified,
  - (b) contain a statement advising of the effect of sub-paragraph (4),
  - (c) state the period within which objections may be made (which may not be less than 28 days).
- (4) The local transport authority may not proceed to vary the partnership plan or scheme in line with the modified changes if, within the period for making objections—
  - (a) in a case where the proposed variation relates to a plan, a sufficient number of the persons who are (or were) operators of qualifying local services in the area of the plan at the qualifying time object to the variation, or
  - (b) in a case where the proposed variation relates to a scheme, a sufficient number of the persons who are (or were) operators of qualifying local services in the area of the scheme at the qualifying time object to the variation.
- (5) If the changes (as modified) relate to the variation of two or more partnership schemes at the same time, sub-paragraph (4)(b) has effect as if the references to the scheme were references to the scheme in question.



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*Making the variation and giving notice to that effect*

- 18 (1) This paragraph applies where a local transport authority—
- (a) have consulted on changes prepared under paragraph 13,
  - (b) if applicable, are not prevented from making the changes (as modified) under paragraph 17, and
  - (c) decide to vary the partnership plan or scheme by making the changes (or the changes as modified).
- (2) The local transport authority may proceed to vary the partnership plan or scheme (or schemes) by making the changes.
- (3) But the variation does not have effect unless, within the period of 14 days beginning with the day after the day on which the local transport authority vary a partnership plan or scheme (or schemes), the authority give notice of the variation to—
- (a) all operators of local services who, in the opinion of the authority, are likely to be affected by the plan or scheme having been varied,
  - (b) such organisations appearing to the authority to be representative of users of local services as they think fit,
  - (c) any other local transport authority or Transport Partnership that the authority consider may be affected by the plan or scheme having been varied,
  - (d) the traffic commissioner,
  - (e) the chief constable of the Police Service of Scotland,
  - (f) the Competition and Markets Authority, and
  - (g) such other persons as the authority think fit.
- (4) The notice must—
- (a) contain full details of the partnership plan or scheme as varied, or
  - (b) state where such details may be inspected.

*Consulting on postponing the coming into operation of variation*

- 19 Where a local transport authority propose to postpone the coming into operation of the variation of a partnership scheme (or any part of it), before making a decision on whether or not to do so, they must consult all operators of local services who are, in their opinion, likely to be affected by the postponement.

*Postponing the coming into operation of variation and giving notice to that effect*

- 20 (1) This paragraph applies where a local transport authority—
- (a) have consulted on postponing the coming into operation of a variation of a partnership scheme (or any part of it), and
  - (b) have decided to postpone the variation.
- (2) The local transport authority may proceed to postpone the coming into operation of a variation of a partnership scheme (or any part of it).

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- (3) But the postponement does not have effect unless, within the period of 14 days beginning with the day after the day on which the local transport authority decide to postpone the coming into operation of the variation of a partnership scheme (or any part of it), the authority—
- (a) publicise their decision in a manner they consider likely to bring the postponement to the attention of persons likely to be affected by the postponement, and
  - (b) give notice of their decision to—
    - (i) any operator of a local service who is, in the opinion of the authority, likely to be affected by the postponement, and
    - (ii) the traffic commissioner.
- (4) The notice must include a statement of the local transport authority's reasons for deciding to postpone the coming into operation of the variation of a partnership scheme (or any part of it).

### PART 3

#### REVOCATION

##### *Notice of proposal to revoke*

- 21 Where a local transport authority propose to revoke a partnership plan or a partnership scheme under section 3I, they must give notice of the proposal in such manner as they consider appropriate to bring the proposal to the attention of persons in their area.

##### *Consultation on proposal*

- 22 After giving notice under paragraph 21, the local transport authority must consult—
- (a) all operators of local services who, in the opinion of the authority, are likely to be affected by the proposed revocation,
  - (b) such organisations appearing to the authority to be representative of users of local services as they think fit,
  - (c) any other local transport authority or Transport Partnership that the authority consider may be affected by the proposed revocation,
  - (d) the traffic commissioner,
  - (e) the chief constable of the Police Service of Scotland,
  - (f) the Competition and Markets Authority, and
  - (g) such other persons as the authority think fit.

##### *Notice of intention to revoke and period for objections*

- 23 (1) If, following consultation under paragraph 22, the local transport authority consider it appropriate to revoke the partnership plan or scheme, they must give notice of their intention to any persons who are (or were) operators of qualifying local services at the qualifying time.

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- (2) The notice under sub-paragraph (1) must—
- (a) state the date on which the partnership plan or scheme is to be revoked,
  - (b) state the local transport authority’s reasons for revoking the plan or scheme,
  - (c) contain a statement advising of the effect of paragraph 24,
  - (d) state the period within which objections may be made (which may not be less than 28 days).

*Effect of objections*

- 24 The local transport authority may not revoke the partnership plan or scheme if a sufficient number of the persons who are (or were) operators of qualifying local services at the qualifying time object to the revocation of the plan or, as the case may be, the scheme.

*Revoking the plan or scheme and giving notice to that effect*

- 25 (1) This paragraph applies where a local transport authority—
- (a) have given notice of their intention to revoke a partnership plan or scheme under paragraph 23,
  - (b) are not prevented from revoking the scheme under paragraph 24, and
  - (c) decide to proceed with the revocation.
- (2) The local transport authority may proceed to revoke the partnership plan or scheme (or schemes).
- (3) But the revocation does not have effect unless, within the period of 14 days beginning with the day after the day on which the partnership plan or scheme is revoked, the local transport authority give notice of the revocation to—
- (a) all operators of local services who, in the opinion of the authority, are likely to be affected by the plan or scheme having been revoked,
  - (b) such organisations appearing to the authority to be representative of users of local services as they think fit,
  - (c) any other local transport authority or Transport Partnership that the authority consider may be affected by the plan or scheme having been revoked,
  - (d) the traffic commissioner,
  - (e) the chief constable of the Police Service of Scotland,
  - (f) the Competition and Markets Authority, and
  - (g) such other persons as the authority think fit.

## PART 4

### POWERS OF SCOTTISH MINISTERS IN RELATION TO CERTAIN EXPRESSIONS USED IN THIS SCHEDULE

- 26 (1) Without limit to the generality of section 3M, the Scottish Ministers may by regulations specify—
- (a) the descriptions of local services that are qualifying local services for the purposes of this schedule,
  - (b) what constitutes a sufficient number of persons for the purposes of paragraphs 5(1), 7(4), 15(1), 17(4) and 24,
  - (c) how the qualifying time is to be determined for the purposes of paragraphs 13(a), 14(1), 15(1), 17(2) and (4), 23(1) and 24.
- (2) Regulations made in pursuance of sub-paragraph (1)(b) may, in particular—
- (a) require that a sufficient number of persons is—
    - (i) all persons providing qualifying local services in the area in question, or
    - (ii) such number of persons as, together, provide at least such proportion of the qualifying local services in the area in question as is specified in the regulations, in addition to being at least such proportion of all persons providing those services as is specified in the regulations,
  - (b) make provision about determining the proportion of qualifying local services provided by an operator, including provision about the time by reference to which the proportion is to be determined.”.

### 37 **Registration of local services and functions of traffic commissioner**

- (1) The Transport Act 1985 Act is amended as follows.
- (2) In section 6 (registration of local services)—
- (a) after subsection (2) insert—
 

“(2ZA) Where—

    - (a) a bus services improvement partnership scheme made under section 3B of the Transport (Scotland) Act 2001 is in operation,
    - (b) a service is registered or a registration of a service is varied under this section, and
    - (c) a service standard imposed under section 3B(3)(b) of the Transport (Scotland) Act 2001 applies to the service or the service as varied,

the service standard is to be recorded with the particulars of the service required to be registered under this section.”,
  - (b) after subsection (7) insert—

“(7ZA) Where a bus services improvement partnership scheme made under section 3B of the Transport (Scotland) Act 2001 is in operation, the registration of a service may also be cancelled under section 6L of this Act.”.

(3) After section 6J insert—

**“6K Application for registration where service standard has effect**

- (1) This section applies where—
- (a) a bus services improvement partnership scheme made under section 3B of the Transport (Scotland) Act 2001 is in operation,
  - (b) a service standard imposed under section 3B(3)(b) of that Act has effect,
  - (c) an application for registration, or for variation of registration, is made under section 6 of this Act in respect of a local service to which that service standard would apply if the application were granted, and
  - (d) the application is one which would, but for this section, fall to be accepted.
- (2) A traffic commissioner must refuse the application if—
- (a) the service standard is an operational service standard, and
  - (b) the traffic commissioner considers that the person who would be the operator of—
    - (i) the service proposed to be provided, or
    - (ii) the service as proposed to be varied,
 is unlikely to be able to comply with the service standard as regards that service.
- (3) In this section, “operational service standard” is to be construed in accordance with section 3C(1)(b) of the Transport (Scotland) Act 2001.

**6L Cancellation of registration when operational service standards not met**

- (1) This section applies where—
- (a) a bus services improvement partnership scheme made under section 3B of the Transport (Scotland) Act 2001 is in operation, and
  - (b) one or more service standards imposed under section 3B(3)(b) of that Act have effect.
- (2) If a traffic commissioner considers that—
- (a) an operational service standard imposed by the scheme applies to a service registered under section 6, and
  - (b) the service is not being provided in accordance with that service standard,
- the traffic commissioner may cancel the registration of that service.
- (3) In this section, “operational service standard” is to be construed in accordance with section 3C(1)(b) of the Transport (Scotland) Act 2001.

### **6M Power to make regulations for appeals against service standards decisions**

Regulations may make provision for or about appeals relating to any—

- (a) decision to record a service standard as a prescribed particular under section 6(2ZA),
- (b) refusal of an application by virtue of section 6K(2),
- (c) cancellation of the registration of a service by virtue of section 6L(2),
- (d) decision to register a service that has a stopping place in the area to which the scheme relates, or
- (e) decision not to record a service standard in relation to such a service under section 6(2ZA).

### **6N Scrutiny of operation of bus services improvement partnership**

- (1) This section applies where—
  - (a) a bus services improvement partnership scheme made under section 3B of the 2001 Act (“the scheme”) is in operation, and
  - (b) it appears to a traffic commissioner that the local transport authority (or authorities) who made the scheme may not be complying with their obligations under it including, in particular, any duty arising under section 3F(2) or (3) of the 2001 Act.
- (2) The traffic commissioner may—
  - (a) investigate the actions of the local transport authority (or authorities) in relation to their compliance with their obligations under the scheme,
  - (b) require the authority (or authorities) to provide such information as the commissioner may specify for the purposes of the investigation.
- (3) A local transport authority may be required to provide the information before the end of such period as may be specified by the traffic commissioner when imposing the requirement.
- (4) Following an investigation under subsection (2), the traffic commissioner must prepare and publish a report—
  - (a) setting out whether or not the commissioner is satisfied that the local transport authority (or authorities) are complying with their obligations under the scheme, and
  - (b) if the commissioner is not satisfied that the authority (or authorities) are complying with their obligations, making such recommendations as the commissioner considers appropriate, including, in particular, recommendations that the authority (or authorities) take such remedial action as may be specified in the report.
- (5) Before publishing a report prepared under subsection (4), the commissioner must provide a copy of it to—
  - (a) the local transport authority (or authorities) who made the scheme, and
  - (b) each operator providing a local service with a stopping place in the area of the scheme.

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- (6) Where, under section 3E of the 2001 Act, the Scottish Ministers acted jointly with a local transport authority (or authorities) to make the scheme, this section applies to the Scottish Ministers as it applies to the authority (or authorities).
- (7) In this section—  
“2001 Act” means the Transport (Scotland) Act 2001,  
“local transport authority” has the meaning given in section 82(1) of the 2001 Act.”.

### *Local services franchises*

## **38 Franchising arrangements for local services**

- (1) The Transport (Scotland) Act 2001 is amended as follows.
- (2) For sections 13 to 27 (including the italic heading immediately preceding section 13) substitute—

### **“CHAPTER 2**

#### LOCAL SERVICES FRANCHISES

### *Franchising frameworks and franchise agreements*

#### **13A Franchising frameworks and franchise agreements**

- (1) A local transport authority may make a franchising framework covering the whole or any part of their area.
- (2) To make a franchising framework a local transport authority must comply with the process set out in section 13C (and the requirements of the sections listed in that section).
- (3) A franchising framework is a framework under which—  
(a) local services (other than those exempted from the framework by virtue of section 13D(2)) may be provided in the area to which the framework relates only under a franchise agreement, and  
(b) the local transport authority determine—  
(i) what local services are to be provided in the area to which the framework relates,  
(ii) the standards to which the services are to be provided, and  
(iii) any additional facilities or services that are to be provided in the area to which the framework relates.
- (4) In this Part, “franchise agreement”, in relation to a franchising framework, means an agreement under which—  
(a) the local transport authority grant to another person the exclusive right to operate the local services to which the agreement relates, and

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- (b) that person undertakes to provide those services on such terms (including in particular as to frequency, fares and standard of services) as may be specified in the agreement.
- (5) A franchise agreement may (but need not) include provision for—
  - (a) the making of payments by the local transport authority to the person undertaking to provide the local service, or
  - (b) the making of payments by the person undertaking to provide the service to the authority.
- (6) A franchise agreement may include provision requiring one or more of the parties to provide additional facilities or services.
- (7) Section 88(1) of the 1985 Act (application to subsidy agreements of section 89 to 92 of that Act) does not apply in relation to franchise agreements.

### **13B Effects of franchising framework**

- (1) During any period when a franchising framework is in operation in relation to any local service included in the framework—
  - (a) sections 6 to 9 of the 1985 Act (registration of local services) do not have effect in relation to the service, and
  - (b) no such service is to be provided other than under a franchise agreement.
- (2) Subsection (3) applies where, in relation to a franchising framework—
  - (a) a local service is not included in the framework, and
  - (b) the service is not excluded from the framework (see section 13D(2)(a)).
- (3) The local service is not, during the period of operation of the franchising framework, to be provided in the area to which the framework relates.
- (4) Subsection (5) applies where, in relation to a franchising framework—
  - (a) a local service is excluded from the framework, and
  - (b) conditions are specified as to when the exclusion is to apply (see section 13D(2)(b)).
- (5) The specified conditions are to be treated, during the period of operation of the franchising framework, as if they were prescribed particulars of the service concerned registered under section 6 of the 1985 Act.

### *Process for making franchising frameworks*

### **13C Overview of process**

- (1) Before making a franchising framework under section 13K, the local transport authority must—
  - (a) prepare a proposed franchising framework which meets the requirements of section 13D,
  - (b) prepare an assessment of the proposed framework in accordance with section 13E,



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- (c) obtain a report from an auditor in accordance with section 13F,
  - (d) carry out the consultation required under section 13G,
  - (e) make such modifications under section 13H (if any) as they consider appropriate in light of the consultation and, if they consider that it is required under subsection (3) of that section, repeat the steps in paragraphs (b) to (d) of this section,
  - (f) obtain approval to make the proposed framework (or the framework as modified) from a panel convened for that purpose by the traffic commissioner under section 13J,
  - (g) comply with such additional procedural requirements as may be prescribed.
- (2) Where the making of a proposed franchising framework has been approved under section 13J, it may be made by the local transport authority under section 13K.

### **13D Proposed franchising frameworks**

- (1) A proposed franchising framework must specify—
- (a) the area to which the framework relates,
  - (b) the local services which are to be provided under franchise agreements,
  - (c) that the framework is, in so far as relating to each local service included in it, to come into operation—
    - (i) on a date not earlier than 6 months after the day on which the local transport authority who made it enter into a franchise agreement in respect of that service, or
    - (ii) on such earlier date as the local transport authority may specify,
  - (d) the period during which it is to remain in operation,
  - (e) the standards to which services must be provided under franchise agreements.
- (2) A proposed franchising framework may—
- (a) provide for the exemption of such local services or such descriptions of local services as the framework may specify, and
  - (b) specify conditions (if any) as to when such exemptions are to apply.
- (3) A proposed franchising framework may provide for such other matters as the local transport authority think fit.
- (4) If a proposed franchising framework relates to an area to which a partnership scheme also relates, the proposed franchising framework—
- (a) must include—
    - (i) in a case where the partnership scheme relates only to the area to which the proposed franchising framework relates or a part of that area, provision revoking the partnership scheme, or
    - (ii) in any other case, provision varying the partnership scheme so that it ceases to relate to any part of the area to which the proposed franchising framework relates, and

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- (b) may include provision varying the partnership plan or, if appropriate, revoking the plan.

### **13E Assessment of proposed franchising framework**

- (1) A local transport authority which propose to make a franchising framework covering the whole or any part of their area must prepare an assessment of the proposed framework.
- (2) The assessment must—
  - (a) set out how, and to what extent, the local transport authority consider the making of the proposed framework will contribute to the implementation of their relevant general policies,
  - (b) compare the making of the proposed framework to one or more other courses of action available to them to implement those policies,
  - (c) describe the expected effect of the proposed framework on any areas which are adjacent to the area of the framework,
  - (d) set out—
    - (i) how they intend to operate the proposed framework, and
    - (ii) the extent to which they consider that they will be able to secure that local services are operated under franchise agreements,
  - (e) set out their analysis of the financial implications for them of making the proposed framework,
  - (f) set out how they propose to review the effectiveness of the proposed framework once it is made.
- (3) The assessment may include such other matters as the local transport authority think fit.
- (4) In preparing an assessment under this section, a local transport authority must seek views about the proposed franchising framework from operators who, at the time of the assessment being prepared, are providing local services in the area to which the proposed framework relates.
- (5) The Scottish Ministers must issue guidance in relation to the preparation of an assessment under this section, and that guidance may, in particular, include guidance about methods to be used when assessing a proposed framework.

### **13F Audit of proposed franchising framework**

- (1) This section applies if, after preparing an assessment of a proposed franchising framework under section 13E, a local transport authority wish to proceed with the proposed framework.
- (2) The local transport authority must obtain a report from an auditor on the analysis of the financial implications contained in the assessment.
- (3) The auditor's report must state whether, in the opinion of the auditor—
  - (a) the information relied on by the local transport authority in conducting the analysis is of sufficient quality,
  - (b) the analysis of that information is of sufficient quality, and

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- (c) the local transport authority have had regard to the guidance issued under section 13E(5) in preparing the analysis.
- (4) An auditor must, when preparing a report under this section, have regard to any guidance issued by the Scottish Ministers in relation to the preparation of such reports.
- (5) In this section, “auditor” means a person who is eligible to be appointed as a statutory auditor under section 1211 of the Companies Act 2006.

### **13G Consultation on proposed franchising framework**

- (1) This section applies if, after obtaining an auditor’s report under section 13F, a local transport authority wish to proceed with the proposed franchising framework.
- (2) The local transport authority must give notice of their intention to make the proposed franchising framework in such manner as they consider appropriate for bringing the notice to the attention of persons in their area.
- (3) The notice referred to in subsection (2) must—
  - (a) describe the proposed franchising framework, including, in particular, the area to which it would relate,
  - (b) include a statement that the local transport authority consider that the proposed framework will contribute to the implementation of their relevant general policies, and
  - (c) state where copies of the consultation documents listed in subsection (5) may be viewed.
- (4) After giving notice of the proposed franchising framework, the local transport authority must consult—
  - (a) all operators of local services in the area to which the proposed framework relates,
  - (b) any other person holding a PSV operator’s licence or community bus permit who, in the opinion of the authority, is likely to be affected by the proposed framework,
  - (c) such organisations appearing to the authority to be representative of employees of such operators as they think fit,
  - (d) such organisations appearing to the authority to be representative of users of local services as they think fit,
  - (e) each local transport authority and Transport Partnership whose area is, in the opinion of the authority, likely to be affected by the proposed framework,
  - (f) the traffic commissioner,
  - (g) the chief constable of the Police Service of Scotland,
  - (h) the Competition and Markets Authority,
  - (i) such other persons as the authority think fit.
- (5) The consultation documents are—
  - (a) the proposed franchising framework,
  - (b) a report on the assessment prepared under section 13E, including, in particular, a description of how the local transport authority consider

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the proposed framework will contribute to the implementation of their relevant general policies,

- (c) the report obtained from the auditor under section 13F,
- (d) such other documents (if any) that the local transport authority think will assist the consultees in considering the proposed framework.

### **13H Modification of proposed franchising framework**

- (1) This section applies where, following consultation under section 13G, a local transport authority consider it appropriate to modify the proposed franchising framework.
- (2) The local transport authority may make such modifications to the proposed franchising framework as they consider appropriate.
- (3) If the local transport authority consider that the modifications materially affect any part of the assessment prepared under section 13E that relates to a matter set out in subsection (2) of that section, they must prepare a new assessment of the proposed framework as modified.
- (4) Sections 13E to 13G apply to any new assessment of the proposed framework as modified as they apply to the original proposed framework.
- (5) The Scottish Ministers must issue guidance in relation to the circumstances in which a local transport authority must prepare a new assessment of a proposed framework.

### **13I Application for approval of the proposed franchising framework**

- (1) This section applies where, following a consultation under section 13G, a local transport authority—
  - (a) either—
    - (i) do not make any modifications to the proposed franchising framework, or
    - (ii) make modifications to the proposed framework, but consider they are not required to prepare a new assessment of the proposed framework under section 13H(3), and
  - (b) decide to proceed with making the proposed framework (as originally proposed or as modified).
- (2) The local transport authority must—
  - (a) request that the traffic commissioner convene a panel under section 13J(2) for the purpose of considering whether to approve the making of the proposed franchising framework, and
  - (b) provide the traffic commissioner with the documents listed in subsection (3).
- (3) The documents are—
  - (a) the consultation documents listed in paragraphs (a) to (c) of section 13G(5),
  - (b) the assessment (or the most recent assessment) prepared under section 13E,

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- (c) a summary of the responses received to the consultation carried out under section 13G and any action (other than a modification under section 13H) that was taken to address the responses,
- (d) a description and explanation of any modifications made to the proposed franchising framework under section 13H.

### **13J Approval of proposed franchising frameworks**

- (1) This section applies where the traffic commissioner has received a request to convene a panel under section 13I(2)(a).
- (2) The traffic commissioner must—
  - (a) give notice of the local transport authority seeking approval for the proposed franchising framework in such manner as the commissioner considers appropriate for bringing the notice to the attention of persons in the area of the authority,
  - (b) appoint three persons to form a panel to decide whether or not to approve the making of the proposed framework,
  - (c) provide the panel with the documents listed in section 13I(3), and
  - (d) provide the panel with any representations made to the commissioner in connection with the approval of making the proposed framework.
- (3) A notice given under subsection (2)(a) must state—
  - (a) that representations may be made to the traffic commissioner in relation to the application for approval of the making of the proposed franchising framework, and
  - (b) the period within which such representations may be made.
- (4) The panel may decide—
  - (a) to approve the making of the proposed franchising framework,
  - (b) to approve the making of the proposed framework subject to the local transport authority making such modifications to the proposed framework as the panel may specify, or
  - (c) not to approve the making of the proposed framework.
- (5) In making its decision under subsection (4), the panel must consider whether the local transport authority have—
  - (a) complied with the process set out in section 13C(1),
  - (b) had regard to the guidance issued by Scottish Ministers under section 13E(5),
  - (c) given appropriate weight to any matter prescribed for the purposes of this section, and
  - (d) otherwise, reached a reasonable conclusion in deciding to make the proposed franchising framework.

### **13K Making of franchising framework**

- (1) This section applies where a panel convened under section 13J has approved the making of a proposed franchising framework.
- (2) The local transport authority may, not later than 6 months after the date of the approval, make the franchising framework.

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- (3) Not later than 14 days after the date on which a franchising framework is made, the local transport authority must—
  - (a) give notice of their having made the framework in such manner as they consider appropriate for bringing the notice to the attention of persons in their area, and
  - (b) send a copy of the framework to the traffic commissioner.
- (4) A notice under subsection (3)(a) must state where a copy of the franchising framework may be viewed.
- (5) A franchising framework is, in so far as relating to a local service included in it, to come into operation—
  - (a) in a case where the framework specifies the date on which it is to come into operation in respect of that service, on the date so specified, and
  - (b) subject to section 13M, in a case where no date is specified in the framework, on such date as is specified in or determined under the franchise agreement entered into in respect of the service.

#### *Entering into franchise agreements*

### **13L Entering into franchise agreements**

- (1) This section applies where—
  - (a) a local transport authority have made a franchising framework, and
  - (b) that framework has not expired under section 13Q or otherwise ceased to have effect.
- (2) The local transport authority may enter into franchise agreements in respect of local services to be provided under the framework.
- (3) A local transport authority may enter into a franchise agreement with a person only if that person holds—
  - (a) an unconditional PSV operator’s licence, or
  - (b) a community bus permit.
- (4) Not later than 14 days after the date on which a local transport authority enter into a franchise agreement, the local transport authority must—
  - (a) give notice of their having made the agreement to—
    - (i) all operators of local services who are, in the opinion of the authority, likely to be affected by the agreement, and
    - (ii) the traffic commissioner, and
  - (b) publish the notice in such manner as the local transport authority consider appropriate for bringing the notice to the attention of persons in the area to which the franchising framework relates.
- (5) A notice under subsection (4) must state—
  - (a) the local services to be provided under the franchise agreement,
  - (b) the date or dates on which the franchising framework is, in so far as it relates to the local services to be provided under the franchise agreement, to come into operation, and
  - (c) the duration of the franchise agreement.

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- (6) For the purpose of subsection (3)(a), “unconditional”, in relation to a PSV operator’s licence, means a licence which does not have attached to it a condition imposed under section 26 of the 1985 Act prohibiting or having the effect of prohibiting the holder from using vehicles under the licence to provide the service or services to which the franchising agreement in question relates.

*Postponement, variation and revocation of franchise frameworks*

**13M Postponing commencement of franchising frameworks or variations**

- (1) A local transport authority may, if they consider it appropriate, decide to postpone the date on which—
- (a) a franchising framework, or
  - (b) the variation of a franchising framework,
- would, in so far as relating to a local service in it, come into operation by virtue of section 13K(5)(b) by such period as they think fit.
- (2) But the date on which a framework or variation comes into operation under subsection (1) must not be postponed by a period or periods which in total exceed 12 months.
- (3) Before postponing the date on which a framework or variation comes into operation under subsection (1), a local transport authority must consult all operators of local services who are, in the opinion of the local transport authority, likely to be affected by the postponement.
- (4) Not later than 14 days after the date on which a local transport authority postpone the date on which a framework or variation comes into operation under subsection (1), the local transport authority must—
- (a) give notice of the postponement to—
    - (i) all operators of local services who are, in the opinion of the authority, likely to be affected by the postponement, and
    - (ii) the traffic commissioner, and
  - (b) publish the notice in such manner as the local transport authority consider appropriate for bringing the notice to the attention of persons in the area to which the franchising framework relates.
- (5) The Scottish Ministers may by regulations make provision in relation to postponements under this section including, in particular, provision reducing or extending the maximum period of postponement in subsection (2).

**13N Applications for approval to vary or revoke franchising frameworks**

- (1) This section applies where a local transport authority wish to vary or revoke a franchising framework they have made.
- (2) The local transport authority must—

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- (a) request that the traffic commissioner convene a panel under section 13O(2) for the purpose of considering whether to approve the proposed variation or revocation of the franchising framework, and
  - (b) provide the traffic commissioner with an application for approval to vary or, as the case may be, revoke the framework.
- (3) An application under subsection (2)(b) must—
- (a) state the local transport authority’s reasons for wishing to vary or revoke the framework,
  - (b) set out how, and to what extent, the local transport authority consider the variation or revocation will contribute to the implementation of their relevant general policies,
  - (c) in the case of a proposal to vary the framework—
    - (i) set out how it is proposed to vary the framework,
    - (ii) describe the expected effect that varying the framework will have on the matters set out in the assessment (or, if more than one, the most recent assessment) of the framework prepared under section 13E, and
    - (iii) if a new assessment is not being prepared, state that the local transport authority do not consider it necessary to prepare a new assessment of the framework as it is proposed to be varied,
  - (d) include any other information that the local transport authority think will assist the panel convened under section 13O in deciding whether or not to approve the proposed variation or revocation.
- (4) If a local transport authority consider that the proposed variation will materially affect any part of the assessment (or, as the case may be, the most recent assessment) prepared under section 13E that relates to a matter set out in subsection (2) of that section, they must prepare a new assessment of the proposed framework as varied.
- (5) Where a local transport authority consider under subsection (4) that they are required to prepare a new assessment—
- (a) sections 13E to 13H apply to the framework as it is proposed to be varied as they apply to a proposed franchising framework, and
  - (b) the local transport authority must, as part of the application under subsection (2)(b), provide to the traffic commissioner—
    - (i) the new assessment,
    - (ii) the report of the auditor on the new assessment,
    - (iii) a summary of the responses received to the consultation carried out under section 13G in respect of the new assessment and any action (other than a modification under section 13H) that was taken to address the responses, and
    - (iv) a description and explanation of any modifications made to the framework as it is proposed to be varied under section 13H.



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### **13O Approval to vary or revoke franchising frameworks**

- (1) This section applies where the traffic commissioner has received a request to convene a panel under section 13N(2)(a).
- (2) The traffic commissioner must—
  - (a) give notice of the local transport authority’s application to vary or revoke the proposed framework in such manner as the commissioner considers appropriate for bringing the notice to the attention of persons in the area of the authority,
  - (b) appoint three persons to form a panel to decide whether or not to approve the proposed variation or revocation of the franchising framework,
  - (c) provide the panel with the application provided to it under section 13N(2)(b),
  - (d) provide the panel with any representations made to the commissioner in connection with the application.
- (3) A notice given under subsection (2)(a) must state—
  - (a) that representations may be made to the traffic commissioner in relation to the proposed variation or revocation, and
  - (b) the period within which such representations may be made.
- (4) Where the application is to vary the framework, the panel may decide—
  - (a) to approve the proposed variation,
  - (b) to approve the proposed variation of the framework subject to the local transport authority making such modifications to the framework as it is proposed to be varied as the panel may specify, or
  - (c) not to approve the proposed variation.
- (5) Where the application is to revoke the framework, the panel may decide—
  - (a) to approve the revocation,
  - (b) to approve the revocation subject to the local transport authority taking such further action before revoking the framework as the panel may specify in its decision, or
  - (c) not to approve the revocation.
- (6) In making its decision under subsection (4) or, as the case may be (5), the panel must consider whether the local transport authority have reached a reasonable conclusion in deciding to vary or revoke the framework.
- (7) Where the panel has approved the variation or revocation of a framework, section 13K applies to that variation or revocation as it applies to the making of a framework.

### **13P Reports on franchising frameworks**

- (1) A local transport authority must, in relation to each franchising framework made by them, for each successive period of 12 months during which the framework is in operation, prepare and publish a report on the effectiveness of the framework.

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- (2) For the purposes of subsection (1), the first period is to begin on the date on which local services start to be provided under a franchise agreement entered into under the framework.
- (3) In preparing a report under subsection (1), the local transport authority must—
  - (a) consult such persons as they consider appropriate for the purpose of assessing the effectiveness of the framework, and
  - (b) consider any representations made to them (whether as part of the consultation or otherwise) in relation to the effectiveness of the framework during the period under review.

### **13Q Non-implementation of franchising frameworks**

- (1) A franchising framework is to cease to have effect on the date which falls at the end of the period of 12 months beginning with the day on which the framework was made unless—
  - (a) the local transport authority which made the framework have entered into a franchise agreement in respect of each local service included in the framework, or
  - (b) subsection (3) applies.
- (2) Subsection (3) applies where—
  - (a) within the period specified in subsection (1), the local transport authority—
    - (i) have failed to enter into a franchise agreement in respect of each local service included in the framework, and
    - (ii) have provided the traffic commissioner with an application for approval to vary the framework, and
  - (b) after the end of that period—
    - (i) the panel convened under section 13O to consider that application refuses to approve the proposed variation, or
    - (ii) the panel so convened has approved the proposed variation but the local transport authority have not varied the framework within the period specified in section 13K(2) (as applied by section 13O(7)).
- (3) The franchising framework is to cease to have effect—
  - (a) on the date that the panel refuse to approve the variation, or
  - (b) as the case may be, on the date which falls at the end of the period of 6 months after the date of approval.
- (4) The Scottish Ministers may by regulations amend subsections (1) and (3) so as to provide for a different period from those for the time being specified in those subsections.

### **13R Provision of information: local services franchises**

- (1) This section applies if a local transport authority are exercising any of the following functions—
  - (a) preparing and making a franchising framework,
  - (b) reviewing the effectiveness of a franchising framework, or

- (c) determining whether and how to vary, or revoke, a franchising framework.
- (2) The local transport authority may require an operator of a local service in the relevant area to provide them with such relevant information relating to the function being exercised as they may specify.
  - (3) The local transport authority must specify the function it is exercising when requiring the provision of relevant information.
  - (4) The operator may be required to provide the information —
    - (a) in any form which, having regard to the manner in which the information is kept, it is reasonable to expect the operator to provide, and
    - (b) before the end of such period as may be specified by the local transport authority.
  - (5) A local transport authority that have obtained relevant information under this section may only—
    - (a) use the information for the purpose of exercising the function for which it was obtained, and
    - (b) supply the information to a person listed in subsection (6) for use in connection with that function.
  - (6) The persons are—
    - (a) a local transport authority,
    - (b) an auditor appointed by the local transport authority under section 13F,
    - (c) any other person providing services to the local transport authority in connection with the function being exercised,
    - (d) a panel appointed under section 13J(2) or 13O(2).
  - (7) A person who receives relevant information under subsection (5)(b) must not disclose it to any other person or use it in connection with a purpose other than the specified function.
  - (8) A person who, without reasonable excuse, discloses information in contravention of this section commits an offence.
  - (9) A person who commits an offence under subsection (8) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
  - (10) Where an offence under subsection (8) committed by a local transport 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, “relevant information” means information of a description specified in regulations made by the Scottish Ministers.
  - (12) Regulations under subsection (11) may specify circumstances in which relevant information (or types of relevant information) may not be required by a local transport authority.

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### **13S Multi-authority franchising**

- (1) Two or more local transport authorities may act jointly to make a franchising framework and enter into a franchise agreement (or agreements) under this chapter.
- (2) In those circumstances, unless the context otherwise requires, a reference in this chapter (other than this section) to—
  - (a) a local transport authority, in relation to a franchising framework or a franchise agreement or to a proposed framework or agreement, is a reference to the authorities acting jointly,
  - (b) the area of a local transport authority is a reference to the combined areas of the authorities,
  - (c) the relevant general policies of a local transport authority is a reference to the relevant general policies of each local transport authority.
- (3) Where two or more local transport authorities act jointly to make a franchising framework or enter into a franchise agreement, they must continue to act jointly in relation to the framework or agreement in all respects.

### **13T Further provision about franchising arrangements**

- (1) The Scottish Ministers may by regulations make further provision for or in connection with the provisions of this chapter.
- (2) The regulations may, in particular, make provision with respect to—
  - (a) the process to be followed when making, varying or revoking a franchising framework, including—
    - (i) the form and content of any notice, statement, report, document or application required in connection with the process,
    - (ii) prescribing time periods for carrying out aspects of the process,
    - (iii) the assessment and audit of proposed franchising frameworks,
    - (iv) the consultation processes to be followed,
    - (v) the holding of inquiries or hearings in connection with objections or representations,
    - (vi) the approval of making proposed franchising frameworks or proposals to vary or revoke franchising frameworks,
  - (b) the standards and requirements that a franchising framework may specify in respect of the accessibility of local services for disabled persons and persons with limited mobility,
  - (c) the local services, or descriptions of local services that must, or may, be exempted from franchising frameworks and the conditions that must, or may, be attached to such exclusions,
  - (d) the panels to be convened under section 13J(2) and 13O(2) and their functions, including provision about—

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- (i) the appointment, removal and replacement of members (including the criteria to be considered for appointment as a panel member),
  - (ii) the remuneration of panel members (including as to payment of panel members' expenses),
  - (iii) the process to be followed by the panel in making decisions.
- (3) The regulations may also make transitional provision in connection with—
- (a) the coming into operation of franchising frameworks,
  - (b) the variation of frameworks, and
  - (c) the ending of frameworks (whether or not as a result of their revocation).
- (4) In particular, regulations in pursuance of subsection (3) may provide for the application, disapplication or modification of the effect of any provision of section 6 to 9 of the 1985 Act in such circumstances as may be prescribed.
- (5) In this chapter, “prescribed” means prescribed by regulations made under this section.”.

#### *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

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- (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.

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- (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.

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- (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).”.

#### **40 Provision of information about bus services**

- (1) The Transport (Scotland) Act 2001 is amended as follows.
- (2) After section 35 insert—

##### **“35A Power to require information about local services**

- (1) The Scottish Ministers may by regulations require—
  - (a) persons who are applying for the registration of a local service or for the variation or cancellation of a registration of a local service to provide prescribed information in relation to the service,
  - (b) operators of a registered local service to provide prescribed information in relation to the service,
  - (c) local transport authorities to provide prescribed information in relation to local services that have one or more stopping places in their areas,
  - (d) the traffic commissioner to provide any prescribed information held by the commissioner in relation to local services.
- (2) The information that may be prescribed is such information falling within subsection (3) as appears to the Scottish Ministers to be required in order to make information about local services available for disclosure to users or prospective users of those services.
- (3) Information falls within this subsection if it is information about—
  - (a) routes, stopping places, timetables, fares and tickets,



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- (b) changes or proposed changes to routes, stopping places, timetables, fares and tickets,
    - (c) the operation of services including—
      - (i) real time information about the location of vehicles operating the services and the times at which they stop, or are expected to stop, at stopping places, and
      - (ii) information about the operation of services in the past.
  - (4) Regulations made under subsection (1) may make provision about—
    - (a) the person to whom the information is to be provided,
    - (b) the time when it is to be provided, and
    - (c) the manner and form in which it is to be provided, including, in particular, provision—
      - (i) requiring it to be provided electronically,
      - (ii) requiring such electronic provision to accord with a prescribed standard.
  - (5) The provision made in pursuance of subsection (4)(a) may not require the information to be provided to a person other than—
    - (a) the Scottish Ministers,
    - (b) a local transport authority,
    - (c) the Secretary of State,
    - (d) a prescribed person, being a person who provides or facilitates the provision of, or is to provide or facilitate the provision of, information about local services to users or prospective users of those services.
  - (6) The regulations may provide that a reference in the regulations to a standard according to which the information is to be provided is to be construed as a reference to that standard as it has effect from time to time.
  - (7) The regulations may make provision as to the use and disclosure of the information, including, in particular, provision for the information to be made available free of charge and without restrictions on its use and disclosure.
  - (8) Before laying a draft of a Scottish statutory instrument containing regulations under this section, the Scottish Ministers must consult—
    - (a) such persons or organisations as the Scottish Ministers consider to be representative of the interests of—
      - (i) operators of local services,
      - (ii) users of local services,
      - (iii) local transport authorities,
    - (b) the Competition and Markets Authority,
    - (c) such other persons as the Scottish Ministers think fit.
  - (9) In this section—
    - (a) “prescribed” means prescribed in the regulations, and
    - (b) a reference to registration, in relation to a local service, is a reference to registration under section 6 of the 1985 Act.”.
- (3) In section 39(1) (penalties), after paragraph (c) insert—

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“(ca) failed to comply with a requirement imposed by regulations made under section 35A(1)(a) or (b),”.

(4) In section 81(4)(b) (regulations subject to the affirmative procedure), for “41(1)” substitute “35A(1),”.