

*These notes refer to the Transport (Wales) Act 2006
(c.5) which received Royal Assent on 16 February 2006*

TRANSPORT (WALES) ACT 2006

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Transport (Wales) Act 2006 which received Royal Assent on 16 February 2006. They have been prepared by the Wales Office in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the provisions of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

GENERAL EFFECT

3. The general effect of the Act is to provide the National Assembly for Wales (“the Assembly”) with additional powers in the field of transport which, together with its existing powers, will enable the Assembly to develop and implement, in partnership with Welsh local authorities and other bodies, a safe, integrated, sustainable, efficient, and economic transport system serving Wales. It gives effect to the Assembly's request that it be granted such powers expressed in a resolution of the Assembly approved in plenary session on 17 March 2004.

SUMMARY AND OVERVIEW

4. The Act places on the Assembly a general duty (“the general transport duty”) to develop policies for the promotion and encouragement of safe, integrated, sustainable, efficient and economic transport facilities and services to, from and within Wales and to carry out its functions so as to implement those policies. It requires the Assembly to prepare and publish a Wales Transport Strategy setting out how it proposes to discharge the general transport duty. It amends the provisions of the Transport Act 2000 (“the Transport Act”), under which local authorities in Wales (as “local transport authorities”) are required to prepare local transport plans, so as to provide a means whereby the Wales Transport Strategy can be implemented at a local level.
5. The Act enables the Assembly to ensure that the transport functions of local authorities in Wales are discharged in a way which reflects the patterns of travel within Wales. The Assembly will be able to direct local authorities as to the manner in which they are to discharge their functions in relation to local transport plans and to direct two or more authorities to enter into arrangements relating to the discharge of their transport functions generally, including arrangements for joint working. The Assembly will also be able, by order made by statutory instrument (which will be subject to the Assembly’s procedures for making subordinate legislation laid down by the Government of Wales Act 1998), to establish, if necessary, joint transport authorities to discharge specified local authority transport functions on a regional basis.
6. The Act confers on the Assembly specific powers to give financial assistance to local transport authorities (including any joint transport authorities which are established) and in respect of airport facilities in Wales and air transport services serving Wales.

7. The Act also gives the Assembly the power to secure the provision of public passenger transport services. In order to do so, the Assembly will be able to enter into direct agreements with the providers of such services.
8. Finally, the Act empowers the Assembly, by order, to establish a Public Transport Users' Committee for Wales which would consider and make recommendations to the Assembly about any matter relating to public transport services or facilities to, from and within Wales.

TERRITORIAL EXTENT

9. The Act's provisions extend only to England and Wales. Since the Act relates to the powers of the Assembly its provisions apply, in practice, primarily to Wales. Some of the powers granted to the Assembly relate, however, to transport not only wholly within Wales but also to and from Wales.

COMMENTARY ON SECTIONS

Section 1: General transport duty

10. **Section 1** imposes on the Assembly a general transport duty. This is a duty on the Assembly to develop policies for the promotion and encouragement of safe, integrated, sustainable, efficient and economic transport facilities and services to, from, and within Wales and to carry out its functions so as to implement those policies. The general transport duty provides a clear statement of the principles which are to govern the Assembly's exercise of its powers in the field of transport. The effect of imposing the general transport duty on the Assembly is to provide general statutory authority under section 85 of the Government of Wales Act 1998 for expenditure by the Assembly in connection with the discharge of that duty.

Section 2: Wales Transport Strategy

11. **Section 2** requires the Assembly to prepare and publish a document to be known as the Wales Transport Strategy setting out the Assembly's policies and proposals for discharging the general transport duty. Having published the Strategy, the Assembly is required to keep it under review and it may revise the Strategy from time to time. Before preparing or revising the Strategy the Assembly must consult all county and county borough councils in Wales and those county and district councils in England whose areas border Wales and it may consult anyone else it thinks appropriate. The Assembly cannot delegate the function of approving the Strategy. The effect of this is that whilst the detailed preparation of the Strategy will be delegated to Assembly Ministers, working in partnership with local authorities and other stakeholders, the Strategy will have to be approved by an affirmative vote of the Members of the Assembly in plenary session.

Section 3 (and Schedule 1): Local transport plans

12. **Schedule 1** (to which section 3 gives effect) makes a number of amendments to Part 2 (Local Transport) of the Transport Act as it applies to local authorities in Wales.

Local transport plans: Wales

13. **Paragraph 2** of the Schedule amends section 108 of the Transport Act so as to require local transport authorities in Wales to include in their local transport plans their policies for implementing, in their area, the Wales Transport Strategy and to carry out their functions to implement those policies.

Approval of local transport plans: Wales

14. The effect of paragraph 4 of Schedule 1 is to insert into the Transport Act a new section (section 109A) which requires local transport authorities in Wales to submit their local transport plans (including any alterations to existing plans) to the Assembly for approval. The introduction of this requirement is intended to provide a mechanism for ensuring that Welsh local transport plans are consistent with the Wales Transport Strategy but it is not otherwise intended to affect the ability of local authorities to decide the content of their plans. The Assembly will be able to provide advice to local authorities on how their emerging plans relate to the Wales Transport Strategy and this should ensure that a refusal by the Assembly to approve a local transport plan would be an exceptional occurrence. If the Assembly refuses to approve a plan (or alteration) it must state its reasons for doing so. As a safeguard against an overly prescriptive approach by Assembly Ministers to local transport plans, any refusal of approval of a plan (and the necessary accompanying statement of reasons for that refusal) will need to be submitted to a vote of Assembly Members in plenary session.
15. In the event that a submitted plan (including any alteration to an existing plan) is not approved the local transport authority is required to submit another plan, which they can modify in the light of the reasons given by the Assembly for the refusal of its predecessor, so as to ensure that a plan is prepared which is mutually acceptable to the authority and to the Assembly.
16. When considering whether to approve a local transport plan (or alteration) the Assembly is required to consider whether it is consistent with the Wales Transport Strategy and contains adequate policies for the implementation of the Strategy in the area to which the plan(or alteration) relates. The Assembly is only permitted to approve a plan (or alteration) if it considers that it satisfies these requirements.

Further and transitional provisions about local transport plans: Wales

17. The amendments to the Transport Act in paragraph 3 ensure that section 109 of that Act will only apply in relation to England. Paragraph 4 also inserts new sections 109B and 109C into the Transport Act, which replace section 109 in relation to Wales. The new section 109B makes further provision about local transport plans in Wales. It provides that any revision to the Wales Transport Strategy will trigger a review of the current local transport plan. It also requires local transport plans to be replaced at intervals of no more than 5 years and obliges local transport authorities in Wales to publish their plan and make it available for inspection.
18. The new section 109C makes transitional provision (to replace that made by section 109 in relation to Wales) by providing for the recognition, as statutory local transport plans, of certain plans prepared by local authorities, in accordance with guidance from the Assembly, prior to the coming into force in Wales on 1 August 2001, of the provisions of the Transport Act relating to local transport plans. Section 109C also modifies the obligation to replace a plan at intervals of no more than five years in respect of those plans. In the case of such transitional plans the date by which they must be replaced will continue to be fixed by order made by the Assembly.

Modification of provisions about plans and strategies: Wales

19. [Paragraph 6](#) inserts a new section 113A into the Transport Act which gives the Assembly the power to make orders modifying the duties of local transport authorities in Wales in relation to local transport plans (and the bus strategies which form part of them) so as to require local transport plans and bus strategies to be prepared for areas which reflect regional patterns of travel instead of local authority boundaries. In determining these areas it is expected that the Assembly would take account of regional patterns of travel generally, including accessibility to work, to public services and to leisure activities. An order will be able to include provision for the necessary

administrative arrangements between different local transport authorities where plans are prepared for areas which cut across boundaries.

Directions concerning plans and strategies: Wales

20. [Paragraph 6](#) also inserts a new section 113B into the Transport Act, which enables the Assembly to give directions to local transport authorities in Wales as to the manner in which they are to carry out their functions in relation to local transport plans. These may include directions about the timetable to apply to the process of preparing or altering plans. The Assembly may also direct authorities to take specified action necessary to implement the policies contained in a local transport plan.

Section 4: Arrangements for discharge of transport functions

21. This section enables the Assembly, after consulting the local authorities involved and anyone else it thinks appropriate, to give directions to two or more local authorities in Wales to enter into specified arrangements in relation to the discharge of transport functions, including arrangements for those functions to be discharged jointly. For example, the Assembly will work in close partnership with local authorities and other stakeholders to develop the Wales Transport Strategy. The proposals for joint working enable the Assembly to require local authorities to work together to produce and implement joint local transport plans on a basis consistent with the Wales Transport Strategy. These new arrangements will make it easier to tackle regional transport issues since the plans will act as a focus for co-ordinating transport services and facilities throughout a region.

Section 5: Joint transport authorities

22. [Section 5](#) gives the Assembly a power to establish, by order, joint transport authorities to discharge all or some of the transport functions of two or more local authorities in Wales. The Assembly would need to take a view at the appropriate time on whether the circumstances would justify the establishment of a joint transport authority. This judgement would take account of whether alternative arrangements, such as those under clause 4 for the joint discharge of functions, would deliver the Wales Transport Strategy in the most effective and efficient manner. A joint transport authority would be able to develop a distinctive regional approach towards transport planning and implementation. For example, it would be able to brand public transport in a uniform way through co-ordinating timetables, adopting a consistent approach towards bus stops and entering into Quality Bus Partnerships or Quality Bus Contracts with local bus operators. It would also be able to adopt a standardised approach towards the creation and enforcement of bus lanes and create lanes that cross local authority boundaries.
23. A joint transport authority must be established as a corporate body with a remit to discharge particular transport functions. These authorities will be able to be funded by levies on constituent authorities as well as by direct financial assistance from the Assembly. An order establishing a joint transport authority will be able to include detailed provisions as to how it is to be constituted. An order may provide for some of the members of a joint transport authority to be appointed by other persons but a majority must always be appointed by the local authorities concerned, thereby ensuring that any joint authority which is established will continue to be accountable to the communities which it serves. An order will be general (as opposed to local) subordinate legislation and this means that it will only be able to be made in accordance with the Assembly's procedures for making such subordinate legislation which are laid down in the Government of Wales Act 1998. Before making an order the Assembly is required to consult the local authorities affected as well as anyone else it thinks appropriate. Any proposal to make an order will, in accordance with Assembly procedures, require a specific regulatory impact assessment.

Section 6: Financial assistance: local transport functions

24. This section provides a specific power for the Assembly to give direct financial assistance to authorities discharging transport functions in Wales including any new joint transport authorities established under section 5.

Section 7: Provision of public passenger transport services

25. This section empowers the Assembly to secure the provision of any public passenger transport service which it considers appropriate for the purpose of meeting any public transport requirements within Wales which would not, in the view of the Assembly, otherwise be met. In doing so the Assembly is required to have regard to economy, efficiency and effectiveness, to the Wales Transport Strategy, and to the transport needs of the elderly or disabled. One of the ways in which the Assembly will be able to secure the necessary provision is by entering into agreements with the providers of such services under which the service will receive financial assistance (service subsidies) but only if the service in question would not be provided without a subsidy.

Sections 8 to 10: Public Transport Users' Committee for Wales.

26. **Section 8** provides the Assembly with the power to establish, by order, a Committee to consider and make recommendations to the Assembly on any matter relating to public passenger transport services or facilities to, from and within Wales. The Assembly, when making such an order, would be able to decide on matters such as the membership and the ordering of the proceedings of the Committee and on how it is to be staffed and accommodated and to include the necessary provisions relating to these matters in the order (which would be subject to the Assembly's normal procedures for making subordinate legislation).
27. **Section 9** sets out the functions of the Committee (as described in the previous paragraph) and permits the Assembly, by order, to amend those functions. This may include conferring further functions on the Committee but only if they relate to public passenger transport services or facilities to, from or within Wales.
28. **Section 10** enables the Assembly to give directions and guidance to the Committee as to how it is to discharge its functions.

Section 11: Financial assistance: air transport services

29. This section provides the Assembly with a specific power to give financial assistance to persons who provide or propose to provide air transport services which start or end at an airport in Wales and to persons who provide or propose to provide airport facilities or services in Wales. The power will be subject to the condition that such assistance may only be given if the services or facilities would not, in the Assembly's view, be provided without that assistance.

COMMENCEMENT

30. Commencement orders will be made by the Assembly to bring the Act (or specific provisions of the Act) into force.

HANSARD REFERENCES

The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament:

<i>Stage</i>	<i>Date</i>	<i>Hansard reference</i>
<i>House of Commons</i>		
		http://www.publications.parliament.uk/pa/cm200506/cmbills/004/2006004.htm

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<i>Stage</i>	<i>Date</i>	<i>Hansard reference</i>
Introduction	19 May 2005	Vol. 434 Col. 282
Second Reading	16 June 2005	Vol. 435 Cols. 409-473
Committee	28 June 2005	Hansard Standing Committee F
Report and Third Reading	17 October 2005	Vol. 437 Cols. 641-669
<i>House of Lords</i>		
http://www.publications.parliament.uk/pa/ld200506/ldbills/026/2006026.htm		
Introduction	18 October 2005	Vol. 674 Col. 679
Second reading	1 November 2005	Vol. 675 Cols. 169-194
Grand Committee	24 November 2005	Vol. 675 Cols. GC431-GC458
Report	10 January 2006	Vol. 677 Cols. 131-135
Third reading	14 February 2006	Vol. 678 Cols.1078-9
Royal Assent – 16 February 2006		House of Lords Hansard Vol. 678 Col. 1253
		House of Commons Hansard Vol. 442 Col. 1579