

Draft Regulations laid before the Scottish Parliament under section 81(4) of the Transport (Scotland) Act 2001, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2024 No.

TRANSPORT

**The Bus Services Improvement Partnerships
(Objections) (Scotland) Regulations 2024**

Made - - - - 2024
Coming into force - - 1st April 2024

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 3M and 81(2) and paragraph 26 of schedule A1 of the Transport (Scotland) Act 2001⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 81(4) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Bus Services Improvement Partnerships (Objections) (Scotland) Regulations 2024 and come into force on 1 April 2024.

(2) In these Regulations—

“the 1985 Act” means the Transport Act 1985⁽²⁾,

“the 2001 Act” means the Transport (Scotland) Act 2001,

“electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000⁽³⁾,

“postal packet” and “postal services” have the meanings given by section 27(1) and (2) of the Postal Services Act 2011⁽⁴⁾,

(1) 2001 asp 2. Section 3M was inserted by section 35 of the Transport (Scotland) Act 2019 (asp 17). Schedule A1 was inserted by section 36 of the Transport (Scotland) Act 2019. The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). These Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.

(2) 1985 c. 67.

(3) 2000 c. 7. That definition was amended by paragraph 158 of schedule 17 of the Communications Act 2003 (c. 21).

(4) 2011 c. 5.

“public holiday” means a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971⁽⁵⁾,

“qualifying local service” has the meaning given by regulation 2,

“working day” means any day other than a Saturday, a Sunday or a public holiday.

(3) In these regulations, “registered distance” means, in relation to a qualifying local service, the distance, in miles or kilometres, which an operator is required to operate in any week which does not include a public holiday in accordance with the particulars of the service registered under section 6 of the 1985 Act⁽⁶⁾ and schedule 1 of the Public Service Vehicles (Registration of Local Services) (Scotland) Regulations 2001⁽⁷⁾.

(4) Where a timetable has not been registered with the particulars of a service because the service interval is 10 minutes or less, paragraph (3) is to be construed as if a timetable indicating a service interval of 10 mins were registered as a particular of the service.

Meaning of a “qualifying local service”

2.—(1) For the purposes of Parts 1 and 2 of schedule A1 of the 2001 Act a local service is a qualifying local service for an area mentioned in those Parts if—

- (a) the traffic commissioner has accepted an application for registration, or variation of the registration, of the local service under section 6 of the 1985 Act,
- (b) it is not an excluded local service, and
- (c) it has one or more stopping places in that area.

(2) For the purposes of Part 3 of schedule A1 of the 2001 Act a local service is a qualifying local service if—

- (a) the traffic commissioner has accepted an application for registration, or variation of the registration, of the local service under section 6 of the 1985 Act,
- (b) it is not an excluded local service, and
- (c) in the case of—
 - (i) the revocation of a partnership plan, it has one or more stopping places in the area of the plan being revoked, or
 - (ii) the revocation of a partnership scheme, it has one or more stopping places in the area of the scheme being revoked.

(3) In this regulation, an “excluded local service” means—

- (a) a local service in respect of which the traffic commissioner has accepted an application under section 6 of the 1985 Act for the cancellation, or variation, of its registration where the effect of the cancellation or variation is that the local service to which the application relates will no longer have one or more stopping places in the relevant area,
- (b) a service or any part of a service provided directly by a local transport authority,
- (c) a service or any part of a service which is subsidised under section 9A(4) of the Transport Act 1968⁽⁸⁾ or, as the case may be, section 63(5) of the 1985 Act⁽⁹⁾ where the local transport authority keeps all of the revenue obtained by operating the service,

(5) 1971 c. 80, which was relevantly amended by section 1 of the St Andrews Day Bank Holiday (Scotland) Act 2007 (asp 2).

(6) Section 6 was relevantly amended by paragraph 8 of schedule 12 of the Railways Act 2005 (c. 14) and by sections 45 and 46 and paragraph 4(2) of schedule 2 of the 2001 Act.

(7) S.S.I. 2001/219, which has been relevantly amended by S.S.I. 2012/32.

(8) 1968 c. 73. Section 9A(4) was inserted by section 57(2) of the 1985 Act and relevantly amended by section 60(2) of the Local Government in Scotland Act 2003 (asp 1).

(9) Section 63(5) was amended by section 12 of the 2001 Act, section 60(3)(a) of the Local Government in Scotland Act 2003 (asp 1) and section 68(2) of the Local Transport Act 2008 (c. 26).

- (d) a service in respect of which a community bus permit has been granted under section 22 of the 1985 Act⁽¹⁰⁾.

Meaning of “qualifying time”

- 3. In schedule A1 of the 2001 Act “the qualifying time” means—
 - (a) for the purposes of paragraph 13(a) of that schedule, the working day immediately before the day on which notice is given under paragraph 12 of that schedule,
 - (b) for the purposes of paragraphs 14(1) and 15(1) of that schedule, the working day immediately before the day on which notice is given under paragraph 14(1) of that schedule,
 - (c) for the purposes of paragraphs 17(2) and (4) of that schedule, the working day immediately before the day on which notice is given under paragraph 17(2) of that schedule,
 - (d) for the purposes of paragraphs 23(1) and 24 of that schedule, the working day immediately before the day on which notice is given under paragraph 23(1) of that schedule.

Means of making objections

4.—(1) If an operator of a qualifying local service to whom notice has been given under paragraph 4(1), 7(2), 14(1), 17(2) or 23(1) of schedule A1 of the 2001 Act makes an objection in response to that notice, the objection must be made in accordance with this regulation.

- (2) Any objection referred to in paragraph (1) must be—
 - (a) in writing,
 - (b) sent by—
 - (i) personal delivery to the address given in the notice,
 - (ii) postal services to the address given in the notice,
 - (iii) any other service which conveys postal packets from one place to another to the address given in the notice,
 - (iv) electronic communication to an electronic address given in the notice as an address to which objections may be sent in response to that notice, and
 - (c) accompanied by information about the registered distance of all qualifying local services that the operator operates in the area of the partnership plan or scheme, as the case may be, to which the objection relates.

Sufficient number of persons

5.—(1) For the purposes of paragraph 5(1) of schedule A1 of the 2001 Act, the number of persons who, on the relevant day (as defined in paragraph 4(3) of that schedule), are operators of qualifying local services in the areas mentioned in that paragraph, and who have objected under that paragraph, is a sufficient number of persons if either paragraph (5) or (6) applies.

(2) For the purposes of paragraph 7(4) of schedule A1 of the 2001 Act, the number of persons who, on the relevant day (as defined in paragraph 7(6) of that schedule), are operators of qualifying local services in the areas mentioned in that paragraph, and who have objected under that paragraph, is a sufficient number of persons if either paragraph (5) or (6) applies.

(3) For the purposes of paragraphs 15(1) and 17(4) of schedule A1 of the 2001 Act, the number of persons who are operators of qualifying local services in the areas mentioned in those paragraphs at the qualifying time for the purposes of those paragraphs (as defined in regulation 3), and who

⁽¹⁰⁾ Section 22 was amended by schedule 7 of the Local Transport Act 2008 (c. 26), S.I. 2013/1644, and S.I. 2019/572.

have objected under those paragraphs, is a sufficient number of persons if either paragraph (5) or (6) applies.

(4) For the purposes of paragraph 24 of schedule A1 of the 2001 Act, the number of persons who are operators of qualifying local services in the areas specified in regulation 2(2)(b) and (c) at the qualifying time for the purposes of that paragraph (as defined in regulation 3), and who have objected under that paragraph, is a sufficient number of persons if either paragraph (5) or (6) applies.

(5) This paragraph applies where on the relevant day, or at the qualifying time, as the case may be—

- (a) the total number of operators of qualifying local services in an area—
 - (i) is fewer than three and all of those operators object,
 - (ii) is three or more and at least two of those operators object, and
- (b) the registered distance of the qualifying local services operated in an area by those who have objected is at least 20% of the registered distance of all such services operated by all operators in that area.

(6) This paragraph applies where on the relevant day, or at the qualifying time, as the case may be—

- (a) the number of operators of qualifying local services who have objected is at least 50% of the total number of operators of qualifying local services in an area, and
- (b) the registered distance of all qualifying local services operated in an area by those who have objected is at least 10% of the registered distance of all such services operated by all operators in that area.

(7) For the purposes of this regulation, where—

- (a) one or more operators of a qualifying local service in an area are subsidiaries of another operator in the same area,
- (b) two or more operators of a qualifying local service in an area are subsidiaries of the same operator in another area,
- (c) two or more operators are subsidiaries of the same holding company,

both or all of those operators are to be treated as one operator, and in this paragraph “subsidiary” and “holding company” have the meanings given by section 1159 of the Companies Act 2006(11).

Notices

6.—(1) This regulation applies to any notice given by a local transport authority to a person under paragraph 4(1), 7(2), 14(1), 17(2) or 23(1) of schedule A1 of the 2001 Act.

(2) In addition to the information referred to in paragraphs 4(2), 7(3), 14(2), 17(3) or 23(2) of schedule A1 of the 2001 Act as applicable, any notice must specify—

- (a) a postal address to which any objections may be sent, and
- (b) an electronic address to which any objections may be sent.

(3) A notice must be in writing and sent by—

- (a) personal delivery,
- (b) postal services,
- (c) any other service which conveys postal packets from one place to another,
- (d) transmitting it to an address for electronic communication provided in writing by the person on whom the notice is to be served.

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the processes that operators of certain local bus services should follow to object to the making, variation or revocation of bus services improvement partnership plans and schemes by a local transport authority under the Transport (Scotland) Act 2001 (“the 2001 Act”), and for determining whether a sufficient number of those operators have objected.

Regulation 2 prescribes which local services are to be qualifying local services for the purposes of schedule A1 of the 2001 Act.

Regulation 3 prescribes the meaning of “qualifying time” for the purposes of Parts 2 and 3 of schedule A1 of the 2001 Act.

Regulation 4 sets out how objections must be made and requires that certain information is provided with those objections.

Regulation 5 prescribes how it is to be determined whether a sufficient number of operators have objected. This is to be determined on the basis of the number of objectors as a proportion of the total number of operators of qualifying local services in the relevant area, and on the registered distance of qualifying local services operated in the relevant area by those who have objected as a percentage of the registered distance of all qualifying local services operated in that area. For this purpose, subsidiaries of the same operator, or holding company, are to be treated as one operator.

Regulation 6 makes provision about the content and service of certain notices under schedule A1 of the 2001 Act that relate to objections.

A full Business and Regulatory Impact Assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.