Transport Act 1968

1968 CHAPTER 73

E+W+S

An Act to make further provision with respect to transport and related matters. [25th October 1968]

Modifications etc. (not altering text)

C1 Power to amend and repeal conferred by Transport (Scotland) Act 1989 (c. 23, SIF 126), **s. 14(3)(d)**

C2 Act excluded by Transport Act 1981 (c. 56, SIF 126), **Sch. 4 Pt. I para. 2(1)(3)**

C3 Provisions of the Act requiring transport managers for operating centres for authorised vehicles under goods vehicle operator's licences repealed (E.W.) by Transport Act 1982 (c. 49, SIF 126), **Sch. 5 para. 6**

C4 This Act is not necessarily in the form in which it has effect in Northern Ireland

C5 Act modified (1.6.1993) by S.I. 1993/1119, regs. 3, 4(1), **Sch. 1** (as amended (2.7.2012) by S.I. 2012/1659, Sch. 3 para. 32(3) (with arts. 4-6))
Act modified (1.6.1993) by S.I. 1993/1119, regs. 3, 4(2), **Sch. 2**
Act: power to apply conferred (S.) (4.1.1995) by 1994 c. 39, s. 40, **Sch. 5 Pt. II para. 15** (with s. 7(2)); S.I. 1994/2850, art. 3(a), **Sch. 2**
Act amended (1.4.1996) by S.I. 1996/593, reg. 2, **Sch. 1**

PART I U.K.

INTEGRATION OF FREIGHT TRANSPORT SERVICES

1—5. . . . . . [F1] U.K.

Textual Amendments

F1 Ss. 1-5 repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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6 . . . . . [F2] **U.K.**

Textual Amendments

F2 S. 6 repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

Redistribution of activities between Freight Corporation and Railways Board or Scottish Group

7 Transfer schemes by authorities. U.K.

(1) Subject to subsection (4) of this section, the Railways Board,. . . [F3], may as occasion seems to them to require it make schemes—

(a) for the reorganisation, amalgamation or dissolution of any of the wholly-owned subsidiaries of **[**[F4]the Board**]**;

(b) for the transfer of any specified property, rights or liabilities, or of all property, rights and liabilities comprised in a specified part of their undertaking, from one to another of the following bodies, namely, the Board,. . . [F3] and any wholly-owned subsidiary of the Board. . . [F3]

(2) . . . . . [F5]

(3) Any scheme under. . . [F3] this section may contain such supplementary, incidental and consequential provision as may appear to **[**[F6]the Board**]** to be necessary or expedient.

(4) A scheme under this section shall not come into force unless it has been approved by the Minister or until such date as the Minister may in giving his approval specify; and the Minister may approve a scheme either without modification or with such modifications as, after consultation with **[**[F7]the Board**]**, he thinks fit; but without prejudice to his powers under section 8 of this Act the Minister shall not approve any such scheme which makes provision—

(a) for a transfer of any property, rights or liabilities which it appears to him would materially prejudice the proper discharge by the Railways Board. . . [F3] of their. . . [F3] duties under the Act of 1962 or this Act; or

(b) . . . . . [F8]

(5) Where in the case of a scheme made by virtue of subsection (1)(*b*). . . [F3] of this section the Minister in approving the scheme under subsection (4) of this section certifies that the scheme is approved as giving effect to conclusions reported under section 45 of this Act or to a direction given under subsection (5) of that section. . . [F9] then, subject to subsection (7) of this section, the property, rights and liabilities in question shall on the date of the coming into force of the scheme be transferred, and by virtue of this Act vest, in accordance with the scheme.

(6) Subject to subsection (7) of this section, in the case of any scheme made by virtue of subsection (1)(*b*). . . [F3] of this section to which subsection (5) thereof does not apply, the property, rights and liabilities in question shall on the date of the coming into force of the scheme be transferred, and by virtue of the scheme vest, in accordance with the scheme.

(7) Schedule 4 to this Act—

(a) shall apply to any transfer under subsection (5) of this section; and

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(b) shall apply to any transfer under subsection (6) of this section subject to any reference in that Schedule to a vesting by virtue of this Act being construed as a reference to a vesting by virtue of the scheme in question;

and the said subsection (5) or (6) shall have effect subject to the provisions of that Schedule;. . . F3

Textual Amendments

F3 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**
F4 Words substituted by Transport Act 1980 (c. 34, SIF 126), **Sch. 7 para. 1**(*a*)
F5 Ss. 7(2), 8(2) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**
F6 Words substituted by Transport Act 1980 (c. 34, SIF 126), **Sch. 7 para. 1**(*b*)
F7 Words substituted by Transport Act 1980 (c. 34, SIF 126), **Sch. 7 para. 1**(*c*)
F8 S. 7(4)(*b*) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**
F9 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

Modifications etc. (not altering text)

C6 S. 7 explained by Transport Act 1981 (c. 56, SIF 126), **s. 1(3)**; modified by Transport Act 1981 s 1(3)(*b*)

8 Transfer orders by Minister. U.K.

(1) Subject to subsection (6) of this section, the Minister may by order—

(a) F10

(b) make any such provision with respect to, or to any wholly-owned subsidiary of, **[**F11the Railways Board**]** as is mentioned in paragraph (a) or (b) of subsection (1). . . F12 of section 7 of this Act.

(2) F13

(3) Any order under. . . F12 of this section may contain such supplementary, incidental and consequential provision as may appear to the Minister to be necessary or expedient.

(4) Subject to subsection (5) of this section, in the case of an order under. . . F12 this section making such provision as is mentioned in section 7(1)(*b*) of this Act. . . F12, the property, rights and liabilities in question shall on such date as may be appointed for the purpose by the order be transferred, and by virtue of this Act vest, in accordance with the order.

(5) Schedule 4 to this Act shall apply to any transfer under subsection (4) of this section and that subsection shall have effect subject to the provisions of that Schedule;. . . F12

(6) F14

and the order shall not be made unless the draft thereof so laid has been approved by resolution of each House of Parliament.

Textual Amendments

F10 S. 8(1)(*a*) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**
F11 Words substituted by Transport Act 1980 (c. 34, SIF 126), **Sch. 7 para. 2**
F12 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**
F13 Ss. 7(2), 8(2) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

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F14 S. 8(6)(*a*)(iv) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

PART II U.K.

PASSENGER TRANSPORT AREAS

Modifications etc. (not altering text)

C7 Pt. 2 amended (S.) by Local Government (Scotland) Act 1973 (c. 65), **s. 150(2)**; modified (E.W.) by Local Government Act 1972 (c. 70), s. 202(3), **Sch. 24 Pt. II** and Transport Act 1983 (c. 10, SIF 126), **s. 10(1)(a)(c)**

C8 Power to modify Pt. 2 conferred (S.) by Local Government (Scotland) Act 1973 (c. 65), **s. 150(3)**

C9 Pt.2 amended (S.) (4.1.1996) by 1994 c. 39, **s. 40(1)** (with s. 7(2)); S.I. 1994/2850, art. 3(a), **Sch. 2**

Designation of Passenger Transport Areas and establishment and functions of Authorities and Executives

9 Passenger Transport Areas, Authorities and Executives. U.K.

[F15(1) **[**F16Subject to any order under section 42(1)(c) of the Local Government Act 1985 (alteration or abolition of passenger transport areas, etc.)**]** for the purposes of this Part of this Act—

(a) each of the following areas, that is to say—

(i) in England and Wales, the metropolitan counties; and

(ii) in Scotland, that part of the Strathclyde region which was a designated area for the purposes of this Part of this Act immediately before the date on which section 57 of the Transport Act 1985 came into operation;

shall be a passenger transport area;

(b) the Passenger Transport Authority for a passenger transport area (referred to below in this Part of this Act, in relation to that area, as "the Authority") shall be—

(i) in relation to a passenger transport area in England and Wales, the metropolitan county **[**F17passenger transport authority for the county which is coterminous with or includes that passenger transport area**]**; and

(ii) in relation to the Strathclyde passenger transport area, the Strathclyde regional council; and

(c) the Passenger Transport Executive for a passenger transport area (referred to below in this Part of this Act, in relation to that area, as "the Executive") shall be the body which immediately before the date mentioned in paragraph (a) above was the Passenger Transport Executive for the designated area for the purposes of this Part of this Act corresponding to that passenger transport area.

(2) The Executive for a passenger transport area consists of—

(a) a Director General appointed in accordance with Part II of Schedule 5 to this Act by the Authority; and

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(b) not less than two nor more than eight other members so appointed by the Authority after consultation with the Director General.

(3) Subject to subsection (2) of this section and Part II of Schedule 5 to this Act, the Secretary of State may by order make with respect to the Executive for any passenger transport area—

(a) such provision with respect to any of the matters referred to in Part III of that Schedule; and

(b) such supplementary, incidental and consequential provision;

as appears to the Secretary of State to be necessary or expedient.

(4) Before making any order under subsection (3) of this section, the Secretary of State shall consult with the Passenger Transport Authority for the area and, where the area is in England and Wales, with the councils of the districts comprised in the **[**F18county which is coterminous with or includes that**]** area.**]**

(5) Each of the councils of **[**F19the districts comprised in **[**F20a county which is coterminous with or includes**]** a passenger transport area**][**F21each of the districts comprised in the region in which the **[**F22passenger transport**]** area is situated**]** and each of the following bodies namely, the Authority, the Executive and any subsidiary of the Executive, shall have power to enter into and carry out agreements with one another for the giving of assistance by that council to that body or, as the case may be, by that body to that council by way of making available to the assisted party any services or facilities provided by, or any property of, the assisting party.

(6) In relation to any area in Scotland or Wales, any reference to the Minister in any provision of this Part of this Act or Schedule 5. . . F23thereto other than **[**F24section 20(6) and (7)**]** shall be construed as a reference to the Secretary of State.

(7) F25

Textual Amendments

F15 S. 9(1)–(4) substituted by Transport Act 1985 (c.67, SIF 126) s. 57(1)(*a*)

F16 Words inserted by Transport Act 1985 (c. 67, SIF 126), **s. 58(2)**(*a*)(i)

F17 Words substituted by Transport Act 1985 (c. 67, SIF 126), **s. 58(2)**(*a*)(ii)

F18 Words inserted by Transport Act 1985 (c. 67, SIF 126), **s. 58(2)**(*b*)

F19 Words substituted (E.W.) by virtue of Transport Act 1985 (c. 67, SIF 126), **s. 57(1)**(*b*)

F20 Words inserted (E.W.) by Transport Act 1985 (c. 67, SIF 126), **s. 58(2)**(*c*)

F21 Words substituted (S.) by Local Government (Scotland) Act 1973 (c. 6)

F22 Words substituted (S.) by Transport Act 1985 (c. 67, SIF 126), **s. 57(1)**(*c*)

F23 Words repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 3, **Sch. 8**

F24 Words substituted by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 3, **Sch. 8**

F25 S. 9(7), which was added (S.) by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 18 para. 1**(*f*), repealed by Transport Act 1985 (c. 67, SIF 126), **ss. 57(1)**(*d*), 139(3), Sch. 8

[F26**9A General functions of Passenger Transport Authorities and Executives.** U.K.

(1) It shall be the duty of the Authority for any passenger transport area to formulate from time to time general policies with respect to the descriptions of public passenger transport services they consider it appropriate for the Executive for their area to secure for the purpose of meeting any public transport requirements within their area which

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in the view of the Authority would not be met apart from any action taken by the Executive for that purpose.

(2) The Authority shall seek and have regard to the advice of the Executive for their area in formulating their policies under subsection (1) of this section.

(3) It shall be the duty of the Executive for any passenger transport area to secure the provision of such public passenger transport services as they consider it appropriate to secure for meeting any public transport requirements within their area in accordance with policies formulated by the Authority for their area under subsection (1) of this section.

(4) The Executive shall have power to enter into an agreement providing for service subsidies for the purpose of securing the provision of any service under subsection (3) of this section; but their power to do so—

(a) shall be exercisable only where the service in question would not be provided without subsidy; and

(b) is subject to sections 89 to 92 of the Transport Act 1985 (tendering for local services, etc.).

(5) Where it appears to the Authority for any passenger transport area that it would be appropriate for the Executive for that area to take any measures for the purpose of or in connection with promoting, so far as relates to that area—

(a) the availability of public passenger transport services other than subsidised services and the operation of such services, in conjunction with each other and with any available subsidised services, so as to meet any public transport requirements the Authority consider it appropriate to meet; or

(b) the convenience of the public (including persons who are elderly or disabled) in using all available public passenger transport services (whether subsidised or not);

the Authority may from time to time formulate general policies with respect to the description of such measures to be taken by the Executive for that area, and the Executive shall take such measures for the purpose or in the connection mentioned above as appear to them to be appropriate for carrying out those policies.

(6) It shall be the duty—

(a) of the Authority for any passenger transport area, in formulating any such policies; and

(b) of the Executive for any passenger transport area, in carrying out any such policies;

so to conduct themselves as not to inhibit competition between persons providing or seeking to provide public passenger transport services in their area.

(7) It shall be the duty both of the Authority and of the Executive for any passenger transport area, in exercising or performing any of their functions under the preceding provisions of this section, to have regard to the transport needs of members of the public who are elderly or disabled.

(8) No person who is for the time being—

(a) the operator of any public passenger transport services;

(b) a director of any company or (as the case may be) an employee of any company or other person who is such an operator;

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(c) a director or employee of any company which is a member of a group of inter-connected bodies corporate any one or more of which is such an operator;

(d) in Scotland, a partner or (as the case may be) an employee of a partner of such an operator;

shall be appointed as a member, officer or servant of the Executive for any passenger transport area; and any person so appointed who subsequently becomes such an operator, director, partner or employee shall immediately vacate his membership of the Executive, or (as the case may be) his office or employment with the Executive.

(9) References in subsection (5) above to subsidised services are references to services provided under an agreement providing for service subsidies entered into—

(a) by the Executive for the area in question or for any other area under subsection (4) of this section; or

(b) by any non-metropolitan county or district council in England and Wales or by any regional or islands council in Scotland under section 63 of the Transport Act 1985.

(10) For the purposes of subsection (8) above, any two bodies corporate are to be treated as inter-connected if one of them is a body corporate of which the other is a subsidiary or if both of them are subsidiaries of the same body corporate; and in that subsection "group of interconnected bodies corporate" means a group consisting of two or more bodies corporate all of which are interconnected with each other in the sense given above.

(11) In this section and section 9B of this Act "public passenger transport services" has the same meaning as in the Transport Act 1985; and—

(a) references in this section to agreements providing for service subsidies; and

(b) references in this section and that section to the operator of, or to persons operating, any public passenger transport services;

shall be read as if contained in that Act.**]**

Textual Amendments

F26 Ss. 9A, 9B inserted (with savings for s. 9A(8)) by Transport Act 1985 (c. 67, SIF 126), **s. 57(2)(5)**

Modifications etc. (not altering text)

C10 S. 9A excluded (24.12.1993) by 1993 c. 43, **ss.144(1)**, 150(1)(j); S.I. 1993/3237, **art. 2(1)**

C11 S. 9A(8) excluded (18.2.1993) by 1989 c. xix, **s. 28(7)** (as inserted by 1993 c. ii, **s.14**)

[F27**9B Consultation and publicity with respect to policies as to services.** U.K.

(1) When considering from time to time the formulation of policies for the purposes of section 9A(1) of this Act, the Authority for a passenger transport area shall consult—

(a) with every Passenger Transport Authority, county council or regional council whose area may be affected by those policies; and

(b) either with persons operating public passenger transport services within their area or with organisations appearing to the Authority to be representative of such persons;

and where the passenger transport area is in England and Wales the Authority shall also consult with the councils of the districts comprised in **[**F28the county which is coterminous with or includes**]** that area about the requirements of transport arising

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out of or in connection with the exercise and performance by those councils of their functions as local education authorities or of their social services functions.

(2) As soon as practicable after any occasion when they formulate new or altered policies for those purposes, the Authority concerned shall publish a statement of all policies so formulated by them on that or any previous occasion which for the time being apply in relation to the performance by the Executive for their area of their duty to secure services under section 9A(3).

(3) When the Authority publish such a statement, they shall send a copy of the statement—

(a) to each Authority or council whom they were required to consult under subsection (1)(*a*) above; and

(b) to each of the persons or (as the case may be) organisations whom they consulted under subsection (1)(*b*) above;

in relation to the formulation of their policies on the occasion in question.

(4) The Authority shall also—

(a) cause a copy of the statement last published by them under subsection (2) above to be made available for inspection (at all reasonable hours) at such places as they think fit; and

(b) give notice, by such means as they think expedient for bringing it to the attention of the public, as to the places at which a copy of that statement may be inspected.**]**

Textual Amendments

F27 Ss. 9A, 9B inserted (with savings for s. 9A(8)) by Transport Act 1985 (c. 67, SIF 126), **s. 57(2)(5)**

F28 Words inserted by Transport Act 1985 (c. 67, SIF 126), **s. 58(3)**

10 General powers of Executive. U.K.

(1) Subject to the provisions of this Act, the Executive for a **[**[F29]designated**][**[F29]passenger transport**]** area shall have power—

(i) to carry passengers by road within, to and from that area;

(ii) to carry passengers by any other form of land transport or by any form of water transport (including in either case hovercraft) between places in that area or between such places and any place outside that area but within the permitted distance, that is to say, **[**[F30]the following distance from the nearest point on the boundary of that area, namely—

(a) in the case of such an other form of land transport, such distance not exceeding twenty-five miles as may be specified in the order with respect to that area under section 9(1) of this Act or, if no distance of twenty-five miles;

(b) in the case of any form of water transport, such distance as may be specified as aforesaid;**][**[F30]the distance of twenty-five miles from the nearest point on the boundary of that area;**]**

(iii) so far as the Executive consider requisite—

(a) in connection with the exercise of their powers under paragraph (i) or (ii) of this subsection, or

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(b) in order to avoid an interruption of existing services which would otherwise result from an exercise by them of any of their functions under this Part of this Act,

to carry passengers as mentioned in the said paragraph (i) or (ii) between places outside that area;

(iv) in any vehicle or vessel used for the carriage of passengers in pursuance of paragraph (i), (ii) or (iii) of this subsection, or in a trailer drawn by any vehicle so used, to carry also luggage and other goods;

(v) to store within that area goods which have been or are to be carried by the Executive, and, so far as any premises provided for the purposes of that or any other part of their business are not required for those purposes, to use them to provide facilities for the storage of other goods;

(vi) to make payments to the Railways Board in respect of railway passenger services provided by the Board for meeting the needs of persons travelling within that area or between places in that area and places outside that area but within the permitted distance for the purposes of paragraph (ii) of this subsection;

(vii) with the approval of the Authority, to make arrangements with any person providing passenger transport services by air for the provision of such services between places in that area or between such places and places outside that area, and to include in such arrangements provision for the making of payments to that person by the Executive;

(viii) to let passenger vehicles on hire with or without trailers for the carriage of goods;

(ix) where an undertaking has been—

(a) transferred to the Executive under subsection (1) of section 17 of this Act; or

(b) wholly or partly resumed by the Executive under subsection (2)(b) of the said section 17; or

(c) acquired by the Executive otherwise than under the said section 17,

to carry on (but, in a case falling within sub-paragraph (c) of this paragraph, only with the approval of the Authority) any activities which the Executive would not otherwise have power to carry on but which were carried on by that undertaking immediately before the date of that transfer, the date of the disposal which gave rise to that resumption, or the date of that acquisition, as the case may be;

(x) in places where persons using the services and facilities provided by the Executive may require them, to provide both for those and other persons facilities for the purchase and consumption of food and drink, places of refreshment and such other amenities or facilities as it may appear to the Executive requisite or expedient to provide;

(xi) at any place where the Executive, in the exercise of their powers under paragraph (x) of this subsection, provide a car park, to repair motor vehicles for any persons, and to sell to any persons petrol, oil and spare parts and accessories for motor vehicles, whether or not those persons are using the car park;

(xii) to provide interchange facilities for the purpose of enabling passengers travelling by one means of transport to continue their journey by another;

(xiii) subject to section 15(2) of this Act **[**[F31]and section 104(1) of the Transport Act 1985 (travel concessions on services provided by Passenger Transport

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Executives)**]**, to demand, take and recover or waive such charges for the services and facilities provided by them, and to make the use of those services and facilities subject to such terms and conditions, as they think fit, so, however, that, without prejudice to any other limitation on the power conferred by this paragraph subsisting by virtue of subsection (7) of this section, this paragraph shall not be construed as entitling the Executive to carry passengers by any form of land or water transport on terms or conditions which—

(a) purport, whether directly or indirectly, to exclude or limit their liability in respect of the death of, or bodily injury to, any passenger; or

(b) purport, whether directly or indirectly, to prescribe the time within which or the manner in which any such liability may be enforced;

(xiv) to construct, manufacture, produce, purchase, maintain and repair anything required for the purposes of their business;

(xv) to enter into and carry out agreements with any person for the carrying on by that person, whether as agent for the Executive or otherwise, of any activities which the Executive have power to carry on, and in particular for the provision of combined services for the through carriage of passengers or goods, for the quoting of through rates, and for the pooling of receipts or expenses, to include in any such agreement provision for the making of payments to that person by the Executive, and to enter into any such agreement notwithstanding that it involves the delegation of functions of the Executive under any enactment relating to part of their undertaking;

(xvi) with the approval of the Authority **[**[F32]and the consent of the Minister**]**, to make with any person with whom they have entered into an agreement under paragraph (xv) of this subsection for the carrying on by that person of any activities arrangements for the transfer from the Executive to that person in such manner and on such terms as may be provided for by the arrangements of any part of the undertaking or property of the Executive relevant to the carrying on of those activities;

(xvii) to acquire by agreement any undertaking or part of an undertaking if the assets comprised in that undertaking or part are wholly or mainly assets which the Executive require for the purposes of their business;

(xviii) for the purposes of the business of the Executive, to lend money to, or give a guarantee for the benefit of, any person for the purposes of an undertaking carried on by that person, or, where that person is a body corporate, by any undertaking carried on by a subsidiary of that body corporate;

(xix) for the purposes of the business of the Executive, to form, promote and assist, or join with any other person in forming, promoting and assisting, a company for carrying on any activities which the Executive have power to carry on, and, where that company is a subsidiary of the Executive, to transfer to that company any part of the undertaking or property of the Executive, and to subscribe for or acquire by agreement any securities of any body corporate;

(xx) to acquire land by agreement—

(a) for the purposes of their business; or

(b) with the approval of the Authority, for the purpose of adding it to and disposing of it with other contiguous land of theirs of which they propose to dispose;

(xxi) to develop their land for the purposes of their business in such manner as they may think fit;

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(xxii) with the approval of the Authority—

(a) to develop for use by other persons any part of their land which is not required for the purposes of their business; or

(b) where the use of their land for the purposes of their business can be combined with its use for other purposes, to develop the land by constructing or adapting buildings thereon for use wholly or partly by other persons; and

(c) where they propose to develop any of their land as mentioned in sub-paragraph (a) or (b) of this paragraph, to acquire by agreement adjoining land for the purpose of developing it together with the other land,

with a view to selling or otherwise disposing of any right or interest in the land or, as the case may be, the buildings or any part of the buildings, after the development is carried out;

(xxiii) subject, in the case of a disposal of land, to the approval of the Authority, to dispose (whether absolutely or for a terms of years) of any property which in their opinion is not required to be retained by them for the purposes of **[**F33the discharge of their duty under section 9(3) of this Act**][**F33their business;**]**, and, in particular, to dispose of an interest in, or right over, any property which, subject to the interest or right, is retained by them;

(xxiv) to do anything for the purposes of advancing the skill of persons employed by them or the efficiency of their equipment or of the manner in which that equipment is operated, including the provision by the Executive, and the assistance of the provision by others, of facilities for training, education and research;

(xxv) to provide houses, hostels and other like accommodation for persons employed by them;

(xxvi) to make loans to persons employed by them for the purpose of assisting those persons to acquire housing accommodation, and to guarantee loans made by building societies and other bodies to such persons for that purpose;

(xxvii) to invest any sums which are not immediately required by them for the purposes of their business;

(xxviii) to turn their resources to account so far as not required for the purposes of their business;

(xxix) with the approval of the Authority, to promote or oppose any Bill in Parliament;

(xxx) to establish and administer pension schemes and pension funds in the interest of persons who are or have been employed by the Executive and to pay pensions to or in respect of such persons, or to enter into and carry into effect agreements or arrangements with any other person for securing or preserving pension rights for such persons;

(xxxi) to provide for any person technical advice or assistance, including research services, as respects any matter in which the Executive have skill or experience;

(xxxii) to do all other things which in their opinion are necessary to facilitate the proper carrying on of their business.

(2) For the purposes of paragraphs (v), (x), (xiv) and (xxiv) to (xxvi) of subsection (1) of this section, goods carried by, services and facilities provided by, things required for the purposes of the business of, and persons employed by, a subsidiary of the Executive or, for the purposes of the said paragraphs (v), (x) and (xiv), by a person providing bus

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services in the area under an agreement with the Executive. . . [F34] shall be deemed to be goods carried by, services and facilities provided by, things required for the purposes of the business of, or persons employed by, that Executive.

(3) If the Authority for a **[**[F29]passenger transport**]** area so request in writing, the Minister may authorise the Executive for that area to purchase compulsorily any land which the Executive or any wholly-owned subsidiary of theirs require for the purposes of their business, and the [M1]**[**[F35]Acquisition of Land Act 1981**]** shall **[**[F36]apply as if the Executive were a local authority within the meaning of that Act, and as if this Act had been in force immediately before the commencement of that Act.**][**[F36]apply to the compulsory purchase**]**.

(4) The power of purchasing land compulsorily in subsection (3) of this section shall include power to acquire an easement or other right in, over or under land by the creation of a new right; but this subsection shall not apply to an easement or other right in, over or under any land which would for the purposes of the **[**[F37]Acquisition of Land Act 1981**]** form part of a common, open space or fuel or field garden allotment.

(5) The Ferries (Acquisition by Local Authorities) [M2]Act 1919 shall apply to the Executive for a **[**[F29]passenger transport**]** area as if the Executive were within the meaning of that Act a local authority for that area.

(6) Part I of the Harbours, Piers and Ferries (Scotland) [M3]Act 1937 shall apply to the Executive for a **[**[F29]passenger transport**]** area as if that area were a **[**[F38]region**]** and the Executive were the council of that **[**[F38]region**]**.

(7) Each of the powers conferred by the foregoing provisions of this section shall be deemed to be in addition to, and not in derogation of, any other of them; but it is hereby declared that those provisions relate only to the capacity of the Executive for a **[**[F29]passenger transport**]** area as a statutory corporation and nothing in those provisions shall be construed as authorising the disregard by the Executive of any enactment or rule of law, or any requirement of this Part of this Act as to the approval of the Authority or the consent of the Minister for a particular exercise of any of those powers.

(8) It shall be the duty of an Executive who have a subsidiary to exercise their control over the subsidiary so as to ensure that the subsidiary does not engage in activities in which the Executive have no power to engage (including activities in which the Executive have no power to engage because any requisite consent or approval has not been obtained).

(9) In the application of subsections (3) and (4) of this section to Scotland there shall be substituted—

(a) for the references to the [M4]**[**[F39]Acquisition of Land Act 1981**]** references to the [M5]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947; and

(b) for the references to an easement references to a servitude;

and the reference in the said subsection (4) to a fuel or field garden allotment shall be omitted.

Textual Amendments

F29 Words “passenger transport" substituted (E.W.S.) for words “designated" by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 2**(*a*)

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F30 Words commencing “the distance of" substituted (E.W.S.) for words commencing “the following distance" by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 4**(*a*)(i)
F31 Words inserted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 139(2), **Sch. 7 para. 7**
F32 Words repealed (E.W.)(S.) by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 29** and Local Government Act 1974 (c. 7, SIF 81:2), **Sch. 8**
F33 Words “their business" substituted (E.W.S.) for words commencing “the discharge" by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 4**(*a*)(ii)
F34 Words repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 4**(*b*), Sch. 8
F35 Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(2)**(*a*)
F36 Words “apply to the compulsory purchase" substituted (E.W.) for words from “apply as if" to “that Act" by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(2)**(*b*)
F37 Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(3)**(*a*)
F38 Word substituted by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 18 para. 2**(*b*)
F39 Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(2)**(*b*)

Modifications etc. (not altering text)
C12 Power to exclude s. 10(1)(i) conferred (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 60(5)**
C13 Power to repeal s. 10(1)(i) conferred (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 60(7)(8)**
C14 Power to exclude s. 10(1)(viii) conferred (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 60(5)**
C15 Power to repeal s. 10(1)(viii) conferred (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 60(7)(8)**
C16 S. 10(1)(xiii) restricted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 104(1)**
C17 S. 10(1)(xv) restricted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 82(5)**

Marginal Citations
M1 1981 c. 67.**(28:1).**
M2 1919 c. 75.
M3 1937 c. 28.
M4 1981 c. 67.**(28:1)**
M5 1947 c. 42**(28:2)**

11 Financial duty of Executive. U.K.

[F40(1) The Executive for a designated area shall so perform their functions under this Act as to ensure so far as practicable that the cumulative net balance of the consolidated revenue account of the Executive and any subsidiaries of theirs does not show a deficit at the end of any accounting period of the Executive after taking into account any amount which, at the date when that period ends, has been specified in a notice under **[**F41section 13(2)**]** of this Act in respect of expenditure incurred before that date but has not yet been received by the Executive.**]**

(2) In respect of each accounting period of the Executive, the Executive shall charge to revenue account, and secure that any subsidiary of theirs so charges, all charges which are proper to be made to revenue account, including, in particular, proper provision for the depreciation or renewal of assets.

(3) The Executive may make charges to capital account representing interest on expenditure of a capital nature for any period which ends with or before the end of the accounting period in which the project or scheme to which the expenditure relates is completed.

[F42(3A) Without prejudice to any power of the Executive to establish specific reserves, the Executive may establish and maintain a general reserve, and the Authority may give to

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the Executive directions as to any matter relating to the establishment or management of any such general reserve and the carrying of sums to the credit thereof, or the application thereof; but no part of the moneys comprised in such a general reserve shall be applied otherwise than for purposes of the Executive or a subsidiary of theirs.**]**

[F43(4) The Executive shall from time to time, at such times, in such form and manner, and as respects such periods, as the Minister may after consultation with the Authority require, submit to the Minister a statement approved by the Authority of the Executive's proposals for expenditure on capital account by the Executive and any subsidiaries of theirs; and—

(a) the Minister may from time to time by notice in writing to the Executive impose a limit on such expenditure by the Executive and their subsidiaries; and

(b) the Executive shall secure that any such expenditure is restricted within that limit.]

(5) If any of the councils of constituent areas so request the Executive in writing, the Executive shall send to that council a copy of any statement submitted by the Executive to the Minister under subsection (4) of this section.**]**

Textual Amendments

F40 S. 11(1) repealed (E.W.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 5, **Sch. 8**

F41 Words substituted (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 18 para. 3**

F42 S. 11(3A) inserted (E.W.) by Local Government Act 1972 (c. 70, SIF 81:1), s. 202(2), **Sch. 24 para. 2** and (S.) by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 18 para. 3**

F43 S. 11(4)(5) repealed (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and (E.W.) by Local Government Act 1974 (c. 7), **Sch. 8**

12 Borrowing powers of Executive. U.K.

(1) The provisions of this section shall have effect with respect to borrowing by the Executive for a **[**F44designated**][**F44passenger transport**]** area.

(2) The Executive may borrow temporarily, by way of overdraft or otherwise, from any person such sums as they may require for meeting their obligations and discharging their functions under this Part of this Act; but the Executive shall ensure that the aggregate of the amounts outstanding in respect of any temporary loans raised by thg Executive under this subsection or raised by any subsidiary of the Executive does not at any time exceed such amount as the Authority for the area may for the time being have approved.

(3) The Executive may, with the approval of the Authority for the area, borrow otherwise than by way of temporary loan from any person and in any manner such sums as the Executive may require for all or any of the following purposes, namely—

(a) for meeting any expenses properly chargeable to capital, being expenses incurred in connection with the provision or improvement of assets in connection with their business;

(b) for the provision of working capital;

(c) for acquiring an undertaking or part of an undertaking;

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(d) for the making of any payment which they are required by or under this Part of this Act to make by way of compensation. . . [F45]

(e) for subscribing for or acquiring securities of a body corporate otherwise than by way of investment;

(f) for the payment of interest charged to capital account under section 11(3) of this Act;

(g) to pay off any debt incurred by the Executive or any liability assumed by or transferred to the Executive in pursuance of this Part of this Act;

(h) for making any loan, or fulfilling any guarantee given, in pursuance of the powers conferred by section 10(1)(xviii) of this Act;

(j) for any purpose for which capital moneys are properly applicable, whether or not specified in the foregoing paragraphs of this subsection;

and the Executive shall exercise their control over any subsidiary of theirs so as to ensure that the subsidiary does not borrow otherwise than by way of temporary loan from any person without the approval of the Authority or for any purpose other than purposes of the subsidiary such as are specified in paragraphs (a) to (e) and (j) of this subsection or for paying off any debt incurred by the subsidiary.

(4) **[**[F46]Each of the councils of constituent areas**]****[**[F46]The Authority for the Executive's area**]** shall have power to lend money to the Executive **[**[F47]but only if the rate of interest payable by the Executive to the Authority in respect of the loan is not less than that which would be payable by the Authority if they were to borrow the same sum on equivalent terms (disregarding any terms as to interest) from another person**]**

(5) All moneys borrowed by the Executive shall be charged indifferently on all their revenues, and all securities created by the Executive shall rank equally without any priority; but nothing in this subsection shall—

(a) apply to any money borrowed by way of temporary loan without security; or

(b) affect any right to priority conferred by a security for any liability assumed by or transferred to the Executive in pursuance of this Act.

[[F48](6) The provisions of this section shall have effect subject to any order made under section 1 of the [M6]Borrowing (Control and Guarantees) Act 1946, and for the purposes of that Act and any such order the Executive shall be deemed to be a local authority within the meaning of that Act.**]**

(7) The Executive shall be deemed to be a local authority for the purposes of—

(a) the enactments relating to loans by or borrowing from the Public Works Loan Commissioners;

(b) . . . . . [M7]

Textual Amendments

F44 Words substituted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), S. 57(6), **Sch. 3 para 2**(*a*)

F45 Words repealed by Transport Act 1985 (c.67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 6**(*a*), Sch. 8

F46 Words substituted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 6**(*b*)(i)

F47 Words substituted (E.W.S.) by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(1), **Sch. 11 para. 16**

F48 S. 12(6) repealed (E.W.) by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(2), **Sch. 12 Part I**, and (E.W.S.) (11.2.1991) by Government Trading Act 1990 (c. 30, SIF 99:1), s. 4(2), **Sch. 2 Pt. I**

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Modifications etc. (not altering text)
C18 S. 12(2) amended (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 133(2)**
C19 S. 12(3)(*d*) amended (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 133(2)**
C20 S. 12(3)(*g*) amended (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 133(2)**
C21 S. 12(5)(*b*) amended (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 133(2)**(*b*)

Marginal Citations
M6 1946 c. 58.
M7 1975 c. 30

[F49 13 Power of regional councils to make grants. E+W+S

(1) Without prejudice to any other power of a regional council to make grants for transport purposes, a regional council who are the Authority shall have power to make grants to the Executive for any purpose.

(2) The regional council shall from time to time by notice in writing to the Executive specify the amount of the grants which the council propose to make to the Executive in respect of expenditure incurred during any accounting period.**]**

Textual Amendments
F49 S. 13 substituted (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 18 para. 5**

[F621 13 Power to make grants. E+W

The Authority shall have power to make grants to the Executive for any purpose.**]**

Textual Amendments
F621 S. 13 substituted (E.W.) by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 7**

VALID FROM 03/11/1994

[F50 13A Guarantees by Authority. S

The Authority may guarantee any obligation entered into by the Executive with the approval of the Authority.**]**

Textual Amendments
F50 S. 13A inserted (S.) (3.11.1994) by 1994 c. 39, **ss. 163**, 184(2)

14 Accounts of Executive. U.K.

(1) The Executive for a **[**F51 designated**][**F51 passenger transport**]** area shall—

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(a) cause proper accounts and other records in relation to their business to be kept; **[**F52and

(b) prepare an annual statement of accounts in respect of such accounting period, in such form, and containing such particulars, compiled in such manner, as the **[**F53Minister**][**F53Authority**]** may from time to time direct.**]**

[F54(2) The accounts of the Executive shall be audited by an auditor or auditors to be appointed annually by the Authority for the area, and any person so appointed as auditor shall be either the district auditor or some other person who is a member, or is a firm in Scotland each of the partners wherein is a member, of one or more of the following bodies, namely—

the Institute of Chartered Accountants in England and Wales;

the Institute of Chartered Accountants of Scotland;

the Association of Certified and Corporate Accountants;

the Institute of Chartered Accountants in Ireland;

the Institute of Municipal Treasurers and Accountants;

any other body, being a body of accountants established in the United Kingdom who are for the time being recognised for the purposes of **[**F55section 389(1)(*a*) of the Companies Act 1985 by the Secretary of State**]**;

and any auditor so appointed shall be entitled to require from any officer of the Executive or of any subsidiary of theirs such books, deeds, contracts, accounts, vouchers, receipts, and other documents, and such information and explanations, as may be necessary for the performance of his duties.**]**

[F56(3) So soon as the accounts of the Executive have been audited as aforesaid, they shall send a copy of the statement of accounts referred to in subsection (1)(b) of this section to the Minister, **[**F57and**]** to the Authority[. . . F58 for the designated area] **[**F59and to each of the councils of constituent areas,**]** together with a copy of the report made by the auditor or auditors on that statement.**]**

[F56(3) As soon as the accounts of the Executive for any accounting period have been audited in accordance with Part III of the Local Government Finance Act 1982 they shall send a copy of any statement of accounts prepared by them for that period pursuant to regulations under section 23 of that Act to the Minister, to the Authority **[**F60and to each of the councils of the districts comprised in the county which is coterminous with or includes the Executive's area**]**, together with a copy of the auditor's opinion on that statement.**]**

Textual Amendments

F51 Words substituted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 2**(*a*)

F52 Word "and" and s. 14(1)(*b*) repealed (E.W.) with saving by Local Government Finance Act 1982 (c. 32, SIF 81:1), S. 38(5), **Sch. 6 Pt. IV**

F53 Word "Authority" substituted (S.) for word "Minister" by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 18 para. 6**(*a*)

F54 S. 14(2) repealed (E.W.) with saving by Local Government Finance Act 1982 (c. 32, SIF 81:1), s. 38(5), **Sch. 6 Pt. IV**

F55 Words substituted by Companies Consolidation (Consequential Provisions) Act 1985, (c. 9, SIF 27), s. 30, Sch. 2

F56 S. 14(3) as second appears substituted (E.W.) for s. 14(3) as first appears with saving by Local Government Finance Act 1982 (c. 32, SIF 81:1), s. 34, **Sch. 5 para. 3**

F57 Word inserted (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 18 para. 6(b)**

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F58 Words repealed (S.) by Transport Act 1985 (c.67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 9, **Sch. 8**
F59 Words repealed (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 21(3)**(*b*)
F60 Words substituted (E.W.) by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 8**

Modifications etc. (not altering text)
C22 S. 14(1)(*a*) excluded (E.W.) by Local Government Finance Act 1982 (c. 32, SIF 81:1), **s. 31(3)**

15 Further functions of Authority. U.K.

(1) The Executive for a **[**F61designated**][**F61passenger transport**]** area shall submit to the Authority and obtain the Authority's approval of—

[F62(a) any proposal for a major reorganisation of any transport services provided within or to and from that area;**]**

[F63(b) all annual or other estimates of income and expenditure prepared by the Executive or any subsidiary of theirs;

(c) any proposal for the development or extension of any services or facilities provided by the Executive or any subsidiary of theirs or provided in pursuance of arrangements with the Executive which involves a substantial outlay on capital account;**]**

[F63(b) such annual or other estimates of income or expenditure of the Executive and any subsidiaries of theirs as the Authority may require to be submitted to the Authority, and any major change proposed to be made in any of those estimates after their approval by the Authority;

(c) any proposal for expenditure by the Executive or any subsidiary of theirs, or by any other person in pursuance of arrangements with the Executive, which involves a substantial outlay on capital account**]**.

(d) any agreement proposed to be entered into by the Executive otherwise than under section 20(2)(b) of this Act with the Railways Board for the provision by the Board of any railway passenger services within, or to and from, that area;

(2) The Executive shall obtain the approval of the Authority—

(a) before making, or authorising or consenting to the making of, any alteration in the general level of charges for the transport services or facilities provided by the Executive or any subsidiary of theirs **[**F64or provided by any person in pursuance of an agreement with the Executive under section 19(2) of this Act**]**; and

(b) subject to section **[**F65138(1) of this Act**][**F65104(2) of the Transport Act 1985 (travel concessions on services provided by Passenger Transport Executives)**]**, for any proposal of the Executive for reducing or waiving those charges in a particular case or cases of a particular class;

[F66and, without prejudice to subsection (4) of this section, the Authority shall before giving or withholding any approval required by virtue of paragraph (a) of this subsection have regard in particular to the extent to which their decision will affect the amount **[**F67to be raised by precepts or, in Scotland, requisitions under section 13 of this Act,**][**F67of the grants which will be needed to enable the Executive to comply with their obligation under section 11(1) of this Act**][**F68and, in the case of services or facilities provided in pursuance of such an agreement as is mentioned in the said paragraph (a), to the terms of the agreement.**]]**

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[F69(3) If the Authority are satisfied that a particular passenger transport service which the Executive have power to provide is required to meet the needs of their **[**F61designated**][**F61passenger transport**]** area, but the Executive are not willing to provide it or to arrange for its provision because they consider that the cost of providing it would be too high in relation to the contribution which it would make to the needs of the area, the Authority may give the Executive a direction requiring the Executive to provide or secure the provision of that service, and the Executive shall comply with that direction; but on giving any such direction the Authority shall, unless the Executive agree to the contrary in writing, give the Executive a written undertaking **[**F70to issue a precept**][**F70to make a grant**]** under section 13 of this Act to meet any cost incurred by the Executive in consequence of the direction.**]**

[F71(4) The Authority, in exercising or performing any of their functions under this Part of this Act, shall have regard to the duty imposed on the Executive by subsection (1) of section 11 of this Act, **[**F72to the provisions of subsection (4) of that section, and to any limit on capital expenditure by the Executive and their subsidiaries imposed by the Minister under the said subsection (4).**]]**

(5) Any expenditure incurred by the Authority in performing their functions under this Part of this Act shall be defrayed by the Executive.

(6) Notwithstanding anything in this Part of this Act, nothing done by the Executive for a **[**F61designated**][**F61passenger transport**]** area shall be held to be unlawful on the ground that the approval of the Authority for that area to the doing of that thing was required by or under this Part of this Act and that it was done without obtaining that approval; but if it appears to the Authority that the Executive propose to do anything, or have done anything, without the approval of the Authority which in the opinion of the Authority requires that approval, the Authority may, after consultation with the Executive, give to the Executive such directions as appear to the Authority to be appropriate to secure so far as practicable the observance of the rights of the Authority in relation to the doing of that thing, and those directions may include directions to discontinue any specified activity or dispose of any specified assets; and the Executive shall comply with any such directions notwithstanding that they may result in the Executive having to dispose of any assets at a loss or incurring liability to other persons.

(7) Any approval or direction given by the Authority in pursuance of this Part of this Act shall be given in writing.

Textual Amendments

F61 Words “passenger transport" substituted (E.W.S.) for word “designated" by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 2**(*a*)

F62 S. 15(1)(*a*) repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 10(1)**(*a*), Sch. 8

F63 S. 15(1)(*b*)(*c*) beginning “such annual" substituted (E.W.)(S.) for s. 15(*b*)(*c*) beginning “all annual" by Local Government Act 1972 (c. 70, SIF 81:1), s. 202(2), **Sch. 24 para. 5** and Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 18 para. 7**(*a*)

F64 Words repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 10(1)**(*b*), Sch. 8

F65 Words commencing “104(2)" substituted (E.W.S.) for words commencing “138(1)" by Transport Act 1985 (c. 67, SIF 126), s. 139(2), **Sch. 7 para. 8**

F66 Words repealed (E.W.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 10(2)**(*a*), Sch. 8

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F67 Words “of the grants" to “Act" substituted (S.) for words “to be raised" to “Act" by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 18 para. 7**(*b*)
F68 Words repealed (S.) by Transport Act 1985 (c. 67, SIF 126), **ss 57(6)**, 139(3) Sch. 3 para. 10(3), Sch. 8
F69 S. 15(3) repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 10(1)**(*c*), Sch. 8
F70 Words “to make a grant" substituted (S.) for words “to issue a precept" by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 18 para. 7**(*c*)
F71 S. 15(4) repealed (E.W.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 10(2)**(*b*), Sch. 8
F72 Words repealed (E.W.)(S.) by Local Government Act 1974 (c. 7, SIF 81:2), **Sch. 8** and Local Government (Scotland) Act 1975 (c. 30, SIF 81:2), **Sch. 7**

Modifications etc. (not altering text)
C23 S. 15(2) modified (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 104(2)**
C24 S. 15(2) excluded (27.7.1993) by 1993 c. xv, **s. 66(5)**
C25 S. 15(2)(*a*) modified (E.W.) by Transport Act 1983 (c. 10, SIF 126), **s. 6(6)**(*a*)
C26 S. 15(2)(*a*) amended (E.W.) by Transport Act 1983 (c. 10, SIF 126), **s. 6(7)**
C27 S. 15(2)(*b*) modified (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 139(1), **Sch. 6 para. 24**
C28 S. 15(5) extended (E.W.) by Transport Act 1983 (c. 10, SIF 126), **ss. 9(3)**, 10(1)(*a*)
C29 S. 15(5) amended (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 133(2)**

[F73 15A Additional provisions as to control of Executive by Authority. U.K.

F74 (1) **[** In addition to any power of the Authority under any other provision of this Part of this Act to give directions to the Executive as respects any matter, the Authority may give to the Executive directions as to the exercise and performance by the Executive of their functions (including the exercise of rights conferred by the holding of interests in companies) in relation to matters appearing to the Authority to affect the carrying out by the Authority or the Executive of their respective duties under section 9(3) of this Act.**]**

(2) The Executive shall provide the Authority at such time or intervals and in such form and manner as the Authority may require with information with respect to the operations and the expenditure on capital and revenue account respectively which are planned or under consideration by the Executive and shall furnish the Authority with such returns, accounts and other information with respect to the property and activities of the Executive or any subsidiary of theirs as the Authority may from time to time require.

(3) The Authority may from time to time cause a review to be made of the organisation of the Executive’s undertaking and may give to the Executive such directions as appear to the Authority from any such review to be requisite to secure that the Executive’s undertaking is organised in the most efficient manner; and the Executive shall not make, or permit to be made, any substantial change in the manner in which their undertaking is organised except in pursuance of a direction given by the Authority under this subsection, or with the approval of the Authority.**]**

Textual Amendments
F73 S. 15A inserted (E.W.) by Local Government Act 1972 (c. 70, SIF 81:1), s. 202(2), **Sch. 24 para. 4** and (S.) by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 18 para. 8**

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F74 S. 15A(1) repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 11, **Sch. 8**

16 Publication of annual report by Authority and Executive and prevention of improper conduct of subsidiary activities. U.K.

(1) The Authority for any **[**F75area designated by an order under section 9(1) of this Act**]****[**F75passenger transport area**]** shall as soon as practicable after the end of each accounting period of the Executive cause to be prepared jointly by the Authority and the Executive, and to be published in such manner **[**F76as the Minister may direct**]****[**F76as the Authority consider appropriate**]** a report on the exercise and performance by the Authority and the Executive of their respective functions during that period, including in particular any matters which by virtue of paragraph 15 of Part III of Schedule 5 to this Act are required **[**F77by the order aforesaid**]****[**F77by any order made, or having effect as if made, under section 9(3) of this Act**]** to be dealt with in the report.

(2) Where the activities of the Executive or any subsidiary of theirs include the carrying on of the business of providing services for the carriage of passengers by road **[**F78which do not, **[**F79and if section 19(3)(*a*) of this Act had not passed would not**]**, require authorisation by a road service licence**]****[**F78other than local services**]**, the report under this section for any accounting period shall include a statement of—

(a) the amount, as determined by the Executive, of the turnover of the Executive or subsidiary for that period in respect of that business;

(b) the extent or approximate extent (expressed in either case in monetary terms) to which, as so determined, the carrying on of that business contributed to, or restricted, the profit or loss of the Executive or subsidiary for that period before taxation;

(c) the method by which any determination for the purposes of paragraph (a) or (b) of this subsection was arrived at; **[**F80and

(d) such further information, if any, relating to the carrying on by the Executive or subsidiary of that business as the Minister may from time to time direct.**]**

[F81(3) If, where the Executive or any subsidiary of theirs carry on such business as aforesaid, it appears at any time to the Minister that, having regard to all the circumstances appearing to the Minister to be relevant, the charges made for the services aforesaid provided by the Executive or subsidiary are unduly low in comparison with the cost of providing them, the Minister shall, after consultation with the Authority and with the Executive, either—

(a) direct the Executive to make, or, as the case may be, to ensure that the subsidiary makes, such modifications in their or its method of conducting that business as may be specified in the direction; or

(b) direct the Executive to discontinue, or, as the case may be, to ensure that the subsidiary discontinues, that business.

(4) The Minister may by order provide that subsections (2) and (3) of this section shall apply with or without modifications to any specified business of the Executive or any subsidiary of theirs which appears to the Minister to be of a character only subsidiary or incidental to the discharge of the Executive's duty under section 9(3) of this Act and to be carried on on a substantial scale as those subsections apply to the business referred to in the said subsection (2).

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(5) The Executive shall secure that no subsidiary of theirs carries on any business with respect to which the Minister has given the Executive a direction under subsection (3)(b) of this section**]**

Textual Amendments

F75 Words commencing "passenger" substituted (E.W.S.) for words commencing "area designated" by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 12(a)(i)**

F76 Words "as the Authority consider appropriate" substituted (E.W.S.) for words "as the Minister may direct" by Local Government Act 1972 (c. 70, SIF 81:1), s. 202(2), **Sch. 24 para. 6** and Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 18 para. 9**

F77 Words commencing "by any order" substituted (E.W.S.) for words commencing "by the order" by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 12(a)(ii)**

F78 Words substituted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 139(2), **Sch. 7 para. 9**

F79 Words expressed to be repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 12(b)**, Sch. 8

F80 Words repealed (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and (E.W.) by Local Government Act 1974 (c. 7, SIF 81:1), **Sch. 8**

F81 S. 16(3)–(5) repealed (E.W.) (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and Local Government Act 1974 (c. 7), **Sch. 8**

Modifications etc. (not altering text)

C30 S. 16 amended by Transport Act 1983 (c. 10, SIF 126), **s. 8(5)**

C31 S. 16(2) excluded (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 60(6)**

Reorganisation of passenger transport in Passenger Transport Areas

[F82 17 Transfer to Executive of local authority transport undertakings. U.K.

(1) In the case of each designated area the Minister shall by order make provision—

(a) with respect to any of the councils of constituent areas in the case of whom, on such date as may be appointed by the order, either—

(i) the council are carrying on, or are a member of some other body which is carrying on, an undertaking which either is at that date a road passenger transport, ferry or railway undertaking or was on the identifying date (that is to say, 8th December 1967 or a date five years before the date of the making of the order, whichever is the later) comprised in such an undertaking; or

(ii) any of the members of any such other body fall to be appointed by the council,

for the transfer on the date so appointed to the Executive from that council of all interests of that council in such fixed or movable property, and of all such rights and liabilities of that council, as may be determined by or under the order, being property, rights and liabilities which are on the date so appointed, or have at any time since the identifying date been, property used, rights enjoyed or liabilities incurred for or in connection with the purposes of that undertaking;

(b) for the transfer to the Executive (subject to paragraph 11(c) of Part III of Schedule 5 to this Act) of all property, rights and liabilities of, and for the dissolution of, any such other body as aforesaid which may be specified in the

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order, being a body in the case of which in consequence of provision made under paragraph (a) of this subsection no person other than the Executive or persons appointed by the Executive are entitled to be or become members;

(c) for the transfer to the Executive from any of the councils of constituent areas or any body specified for the purposes of paragraph (b) of this subsection of all such powers and duties as may be determined by or under the order, being powers or duties conferred or imposed on that council or body by or under any Act for the purposes of or in connection with any such undertaking as is referred to in paragraph (a) of this subsection;

(d) for the transfer to the service of the Executive of all such persons as may be determined by or under the order, being persons who immediately before the date appointed as aforesaid are employed by any of the councils of constituent areas or any body specified for the purposes of paragraph (b) of this subsection and who either are on that date or were on the identifying date aforesaid so employed in connection with any such undertaking as is referred to in paragraph (a) of this subsection;

(e) for the protection of the interests of persons transferred by the order to the service of the Executive.

(2) Any order under subsection (1) of this section may contain such supplementary, incidental and consequential provision as the Minister thinks necessary or expedient for the purposes of the order, and in particular, but without prejudice to the generality of the foregoing provisions of this subsection, may include provision—

(a) for the assumption by any council such as is mentioned in subsection (1)(a)(i) of this section and by the Executive of such liabilities to one another as may be determined by or under the order to be appropriate having regard to the financial arrangements of that council before the severance of the undertaking so mentioned from the other activities of that council;

(b) for—

(i) the exclusion from transfer to, or the disclaimer by, the Executive of any property acquired or contract entered into for the purposes of any undertaking affected by the order or any variation made in such a contract; or

(ii) the resumption by the Executive of any property, rights or liabilities formerly included in any such undertaking which have been disposed of before the transfer date; or

(iii) the resumption by the Executive of any interests in property, rights and liabilities of any of the councils of constituent areas, being property used, rights enjoyed or liabilities incurred for or in connection with the purposes of a road passenger transport, ferry or railway undertaking to which subsection (1)(a) of this section would have applied but for a disposal of the undertaking before the date appointed under the said subsection (1)(a), and whether before or after the making of the order,

if the acquisition of that property, the making of that contract or variation, or that disposal, took place after such date as may be specified in the order, not being earlier than the identifying date referred to in the said subsection (1)(a), and was not reasonably necessary or expedient for the purposes of the undertaking or was an act of unreasonable imprudence on the part of the person carrying on the undertaking;

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(c) for the payment by such of the councils of constituent areas as are concerned of compensation to any person from whom any property, rights and liabilities are resumed by the Executive by virtue of paragraph (b)(ii) or (iii) of this subsection;

(d) for the settlement by a court or otherwise of any dispute or other matter arising in connection with the order;

(e) for securing that any undertaking affected by the order is properly carried on and maintained pending any relevant transfer under the order;

(f) for making in any Act, or in any instrument made under an Act, being an Act or instrument relating to, or to a class of undertakings which includes, any undertaking affected by the order, such modifications or repeals as may appear to the Minister to be required in consequence of any transfer under the order;

(g) for the making by the Executive to any council such as is mentioned in subsection (1)(a)(i) of this section of payments by way of contributions to the cost of any adjustments arising from the severance of the undertaking so mentioned from the other activities of that council.

(3) Section 1(1) to (5) of the [M8]Water Officers Compensation Act 1960 (which relates to compensation for loss of employment, etc., attributable to certain orders) shall apply to an order under subsection (1) of this section as it applies to the orders referred to in subsection (1) of that section but as if the definition of "the appropriate Minister" in subsection (4) of that section were omitted and for any other reference in that section to the appropriate Minister there were substituted a reference to the Minister; and the Minister shall exercise as respects any order under subsection (1) of this section the power to make regulations conferred by the said section 1 as applied by this subsection.

(4) Before making an order under subsection (1) of this section with respect to any designated area the Minister shall consult with any such councils of constituent areas as are referred to in paragraph (a), and any such other bodies as are referred to in paragraph (b), of that subsection; and those councils or bodies shall furnish the Minister with such information as he may reasonably require for the purpose of making the order.

(5) Subject to subsection (6) of this section, any property or interests in property, rights and liabilities for the transfer of which provision is made by an order under subsection (1) of this section shall on the date appointed for the purpose by the order be transferred, and by virtue of this Act vest, in accordance with the order.

(6) Schedule 4 to this Act shall apply to any transfer under subsection (5) of this section and that subsection shall have effect subject to the provisions of that Schedule; but—

(a) for the purposes of an order under subsection (1) of this section with respect to an area in Scotland or Wales, any reference in that Schedule to the Minister shall be construed as a reference to the Secretary of State;

(b) any order under the said subsection (1) may make modifications in that Schedule for the purposes of its application to a transfer effected by that order.**]**

Textual Amendments

F82 S. 17 repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 1, **Sch. 8**

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Marginal Citations

M8 1960 c. 15.

18, 19. . . . . . [F83] E+W+S

Textual Amendments

F83 Ss. 18, 19 repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 1, **Sch. 8**

20 Special duty of certain Executives with respect to railway passenger services. E+W+S

(1) . . . . . [F84]

(2) Without prejudice to their **[**[F85]duty under section 9A(3)**]** of this Act, it shall be the special duty of the Executive for a **[**[F86]passenger transport**]** area. . . [F87]—

(a) to. . . [F88] keep under review, the railway passenger services provided by the Railways Board for meeting the needs of persons travelling between places in that area or between such places and places outside that area but within the permitted distance for the purposes of section 10(1)(ii) of this Act as it applies to that Executive; and

(b) without prejudice to the general powers of the Executive under section 10 of this Act, to enter into such agreements with that Board as the Authority may approve for securing that the Board provide such railway passenger services as the Authority **[**[F89]consider it appropriate to secure to meet any public transport requirements within that area**]**.

(3) The Railways Board shall furnish the Executive with any information which the Executive may reasonably require for the purposes of the discharge of their functions under subsection (2) of this section.

(4) Without prejudice to the general power of the Executive under section 10(1)(vi) of this Act, any agreement under this section may include provision for the making of payments by the Executive to the Railways Board in respect of the railway passenger services provided by the Board in pursuance of the agreement.

(5) Before entering into any agreement under this section, the Executive shall send a copy of the proposed agreement to the Minister; but a failure to comply with this subsection shall not affect the validity of the agreement.

(6) If any dispute arises between the Executive and the Railways Board in connection with the provisions of subsection (2) or (3) of this section, either of them may require the dispute to be referred to the Minister for determination, and any agreement under the said subsection (2) may include provision for any dispute in connection with the agreement to be so referred; and where any dispute is referred to the Minister under or by virtue of this subsection, then, subject to subsection (7) of this section, the Minister may give such directions to the Executive and the Board with respect to the dispute as he thinks fit.

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(7) Before giving any directions under subsection (6) of this section to the Executive for a **[**[F86]passenger transport**]** area in Scotland or Wales the Minister shall consult with the Secretary of State.

(8) . . . . . [F90]

Textual Amendments

F84 S. 20(1) repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(3), 139(3), **Sch. 8**

F85 Words substituted by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 13**(*a*)(i)

F86 Word substituted by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 2**(*a*)

F87 Words repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 13**(*a*)(ii), Sch. 8

F88 Words repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 13**(*a*)(iii), Sch. 8

F89 Words substituted by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 13**(*a*)(iv)

F90 S. 20(8) repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 13**(*b*), Sch. 8

Modifications etc. (not altering text)

C32 S. 20 extended (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 57(3)**

21 . . . . . [F91] E+W+S

Textual Amendments

F91 S. 21 repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 1, **Sch. 8**

General

22 Provisions as to regulations and orders under Part II. U.K.

(1) In relation to orders. . . [F92] made under this Part of this Act, the provisions of this section shall have effect in addition to the provisions of section 157 of this Act.

(2) Any order. . . [F92] made under this Part of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) . . . . . [F93]

Textual Amendments

F92 Words repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 14**(*a*), Sch. 8

F93 S. 22(3)–(6) repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 14**(*b*), Sch. 8

23 Consents of, or directions by, Minister under Part II. U.K.

(1) Section 28 of the Act of 1962 (which contains general provisions with respect to Ministerial consents under that Act) shall apply to a consent of the Minister under

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any provision of this Part of this Act to an action of the Executive for a **[**F94passenger transport**]** area as it applies to a consent under any of the provisions mentioned in the said section 28 to an action of any of the Boards and, where that area is in Scotland or Wales, as if any reference therein to the Minister of Transport included a reference to the Secretary of State.

(2) It shall be the duty of any person to whom the Minister **[**F95or an Authority for a **[**F94passenger transport**]** area**]** gives directions under this Part of this Act to give effect to those directions.

(3) Any direction given by the Minister **[**F95or an Authority for a **[**F94passenger transport**]** area**]** under this Part of this Act shall be in writing.

Textual Amendments

F94 Words "passenger transport" substituted (E.W.S.) for "designated" by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 2**(*a*)

F95 Words inserted by (E.W.)(S.) Local Government Act 1972 (c. 70, SIF 81:1), s. 202(2), **Sch. 24 para. 7** and Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 18 para. 12**

VALID FROM 01/04/1994

[F96**23A Interpretation of certain provisions of this Part relating to railways.** U.K.

(1) For the purposes of sections 10, 15 and 20 of this Act—

(a) "light maintenance depot", "locomotive", "network", "railway passenger services", "rolling stock" and "station" have the meaning given in section 83(1) of the Railways Act 1993; and

(b) "operator" has the meaning given in section 6(2) of that Act.

(2) For the purposes of sections 10(1)(vi), 15(1)(d) and 20(2)(b), (4) and (6) of this Act "wholly-owned subsidiary" has the meaning given by section 736 of the M9Companies Act 1985.**]**

Textual Amendments

F96 S. 23A inserted (1.4.1994) by 1993 c. 43, **s. 36(3)**; S.I. 1994/571, **art. 5**

Marginal Citations

M9 1985 c. 6.

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PART III U.K.

BUS AND FERRY SERVICES

National Bus Company and Scottish Transport Group

24 Establishment and general duties of Bus Company and Scottish Group. U.K.

(1) There shall be constituted in accordance with Schedule 1 to this Act—

(a) a public authority to be called the National Bus Company (hereafter in this Act referred to as "the Bus Company"); and

(b) a public authority to be called the Scottish Transport Group (hereafter in this Act referred to as "the Scottish Group").

(2) **[**F97Where any area has been designated under section 9(1) of this Act**][**F97In the case of any area which is a passenger transport area for the purposes of Part II of this Act**]**, it shall be the duty—

(a) of the Executive for that area; and

(b) of the Bus Company, or of the Scottish Group, or of both that Company and that Group (as may be appropriate having regard to where that area is situated), either acting directly, or acting indirectly through subsidiaries of that Company or Group,

to co-operate with one another in the re-organisation of bus services within, to and from that area, and for that purpose to enter into agreements as to the services to be provided by the Company or Group or their subsidiaries in or in connection with that area, and as to the terms on which those services are to be provided; and any such agreement may include arrangements for the transfer between the parties thereto in such manner and on such terms (including payments by one of the parties to the other) as may be provided for by the agreement of specified property, rights or liabilities.

[F98(3) It shall be the duty respectively—

(a) F99

(b) of the Bus Company and the Railways Board;

(c) of the Scottish Group and the Railways Board;

(d) of the Bus Company and the Scottish Group,

either directly, or indirectly through subsidiaries of theirs, to co-operate with one another in the exercise and performance of their respective functions for the purpose of co-ordinating the passenger transport services provided by, or by subsidiaries of, those authorities respectively and to afford to one another such information as to proposed changes in their services as may be reasonably required for that purpose.**]**

(4) **[**F100Subsections (2) and (3)**][**F100Subsection (2)**]** of this section shall not be construed as imposing, either directly or indirectly, on any of the authorities mentioned therein any form of duty or liability enforceable by proceedings before any court to which that authority would not otherwise be subject.

Textual Amendments

F97 Words commencing "In the case of any area" substituted (E.W.S.) for words commencing "Where any area" by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 15**

F98 S. 24(3) repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 113(1), 139(3), **Sch. 8**

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F99 S. 24(3)(*a*) repealed by Transport (London) Act 1969 (c. 35, SIF 126), **Sch. 6**
F100 Words "Subsection (2)" substituted (E.W.S.) for words "Subsections (2) and (3)" by Transport Act 1985 (c. 67, SIF 126), **s. 113(2)**

Modifications etc. (not altering text)
C33 S. 24(2)(3) excluded by Transport Act 1980 (c. 34), **s. 15(2)**(*a*)
C34 Power to exclude s. 24(2) conferred (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 60(2)**
C35 S. 24(2) excluded (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 60(3)**
C36 Power to repeal s. 24(2) conferred (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 60(7)**(*a*)(8)

25 General powers of Bus Company. U.K.

Subject and without prejudice to the provisions of, or of any enactment applied by, sections 47 to 52 of this Act, the Bus Company shall have power—

(a) to carry passengers by road, whether in or outside England and Wales;

(b) to carry passengers by vessel or hovercraft where that carriage forms part of a passenger transport service which includes the carriage of passengers by road by the Company or a subsidiary of theirs or by some other person, whether or not as agent for the Company, in pursuance of an agreement with the Company;

(c) where any vehicle or vessel is used for the carriage of passengers in pursuance of paragraph (a) or (b) of this section, to carry also luggage or other goods in that vehicle or a trailer drawn thereby or in that vessel;

(d) to store goods which have been or are to be carried by the Company in pursuance of paragraph (c) of this section or by a subsidiary of the Company, and, so far as any premises provided for the purposes of that or any other part of their business are not required for those purposes, to use them to provide facilities for the storage of other goods;

(e) to let passenger vehicles for hire with or without trailers for the carriage of goods;

(f) to carry on business as travel agents;

(g) to enter into and carry out agreements with any person engaged in the provision of transport services, by whatever form of transport, for co-ordinating the activities of that person with those of the Bus Company, and in particular for the provision of combined services for the through carriage of passengers or goods, whether by the same or partly by one and partly by another form of transport, for the quoting of through rates and for the pooling of receipts or expenses;

(h) to join with any person engaged as mentioned in paragraph (g) of this section in forming, promoting and assisting a company for carrying on any activities in connection with such combined services as are so mentioned which the Bus Company or that person have power to carry on;

(j) with the consent of the Minister, to carry on any activities which the Company would not apart from this paragraph have power to carry on but which a subsidiary of the Company was carrying on immediately before it became such a subsidiary.

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26 General powers of Scottish Group. U.K.

(1) Subject and without prejudice to the provisions of, or of any enactment applied by, sections 47 to 52 of this Act, the Scottish Group shall have power—

(a) to carry passengers by road, subway or water or by hovercraft, whether in or outside Scotland;

(b) to carry goods by road or water or by hovercraft within, or to or from any place situated within, the **[**F101Highland region, the islands areas of Orkney, Shetland and the Western Isles, the Argyll district and in the Cunninghame district the former burgh of Millport and the former districts of Arran and Cumbrae**]**;

(c) where any vehicle or vessel is used for the carriage of passengers in pursuance of paragraph (a) of this subsection, to carry also luggage and other goods in that vehicle or a trailer drawn thereby or in that vessel;

(d) to consign goods on behalf of other persons;

(e) to store goods which have been or are to be carried by the Group or by a subsidiary of theirs and—

(i) so far as any premises provided by the Group for the purposes of that or any other part of their business are not required for those purposes, to use them to provide facilities for the storage of other goods;

(ii) with the consent of the Secretary of State to provide such facilities at any other premises;

(f) to carry on business as travel agents;

(g) to enter into and carry out agreements with any person engaged in the provision of transport services, by whatever form of transport, for co-ordinating the activities of that person with those of the Group, and in particular for the provision of combined services for the through carriage of passengers or goods, whether by the same or partly by one and partly by another form of transport, for the quoting of through rates, and for the pooling of receipts or expenses;

(h) to join with any person engaged as mentioned in paragraph (g) of this subsection in forming, promoting and assisting a company for carrying on any activities in connection with such combined services as are so mentioned which the Group or that person have power to carry on;

(j) either alone or together with any other person, to provide maintain and operate depots for the sorting of goods, with facilities for the reception, storage, weighing and handling of goods and for compliance with the requirements of the enactments relating to customs and excise;

(k) to let for hire any vehicle, vessel or other means of transport;

(l) to operate harbours;

(m) with the consent of the Secretary of State, to carry on any activities which the Group would not apart from this paragraph have power to carry on but which a subsidiary of the Group was carrying on immediately before it became such a subsidiary.

(2) The Scottish Group shall not be regarded as common carriers in respect of any of their activities concerned with the carriage of goods.

Textual Amendments

F101 Words substituted by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 18 para. 13**

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27 Financial provisions with respect to Bus Company and Scottish Group. U.K.

(1) Subject and without prejudice to the provisions of section 41 of this Act, the following provisions of the Act of 1962, namely—

(a) section 18 (financial duty of Boards);

(b) section 19 (borrowing powers of Boards);

(c) section 20 (loans out of National Loans Fund);

(d) section 21 (Treasury guarantees);

(e) section 24 (accounts),

shall apply to the Bus Company and to the Scottish Group as they apply to the Boards, except that any reference in those sections to the Minister shall, in relation to the Scottish Group, be construed as a reference to the Secretary of State.

(2) The Bus Company and the Scottish Group shall each assume a commencing capital debt in accordance with the provisions of Schedule 2 to this Act.

(3) The aggregate amount outstanding in respect of—

(a) the principal of any money borrowed by the Bus Company or, as the case may be, the Scottish Group, under section 19 of the Act of 1962, and

(b) the commencing capital debt of that Company or, as the case may be, Group,

shall not exceed—

(i) for the Bus Company, **[**F102the limit mentioned in subsection (4) of this section**]**;

(ii) for the Scottish Group, £50 million.

[F103(4) The limit referred to in subsection (3)(i) of this section is £250 million or such greater sum not exceeding £275 million as the Secretary of State may specify by order.

(5) No order shall be made under subsection (4) of this section unless a draft of the order has been laid before and approved by resolution of the House of Commons.**]**

Textual Amendments

F102 Words substituted by Transport (Finance) Act 1982 (c. 6, SIF 102), **s. 4(2)**

F103 S. 27(4)(5) added by Transport (Finance) Act 1982 (c. 6, SIF 102), **s. 4(3)**

28 Transfer to Bus Company or Scottish Group of certain securities, rights and liabilities. U.K.

(1) On the appointed day for the purposes of this subsection—

(a) the securities of the bodies listed in Schedule 7 to this Act, so far as beneficially owned on that day by the Holding Company or by any wholly-owned subsidiary of that Company, and

(b) any rights or liabilities on that day of that Company or subsidiary regarding the securities of any of those bodies, and

(c) the right to any money owed on that day to that Company or subsidiary by any of those bodies, and

(d) the liability represented by any money owed on that day by that Company or subsidiary to any of those bodies, and

(e) any rights and liabilities on that day of that Company in connection with Tilling Association Limited, and

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(f) any rights and liabilities of the Holding Company under any agreement such as is mentioned in paragraph 6 of Schedule 5 to the Act of 1962 so far as subsisting in England or Wales,

shall, subject to subsection (3) of this section, be transferred to, and by virtue of this Act vest in, the Bus Company.

(2) On the appointed day for the purposes of this subsection—

(a) the securities of the following bodies, namely—

(i) David MacBrayne Limited; and

(ii) Scottish Bus Group Limited,

so far as beneficially owned on that day by the Holding Company or by any wholly-owned subsidiary of that Company, and

(b) the securities of the following body, namely, the Caledonian Steam Packet Company Limited, so far as beneficially owned on that day by the Railways Board, and

(c) any rights or liabilities on that day of the Holding Company or that subsidiary thereof or, as the case may be, of that Board regarding the securities of any of those bodies, and

(d) the right to any money owed on that day to the Holding Company or subsidiary or, as the case may be, to that Board by any of those bodies, and

(e) the liability represented by any money owed on that day by the Holding Company or subsidiary or, as the case may be, by that Board to any of those bodies, and

(f) any rights and liabilities of the Holding Company under any agreement such as is mentioned in paragraph 6 of Schedule 5 to the Act of 1962 so far as subsisting in Scotland,

shall, subject to subsection (3) of this section, be transferred to, and by virtue of this Act vest in, the Scottish Group.

(3) Where any of the securities referred to in subsection (1) or (2) of this section are beneficially owned as mentioned in that subsection but held by a nominee, that subsection shall operate only to transfer the beneficial interest in the securities; and paragraphs (c) and (d) of the said subsection (1) and paragraphs (d) and (e) of the said subsection (2) shall not apply to money owed in the ordinary course of trading.

(4) The Minister may by order made not later than the appointed day for the purposes of subsection (1) of this section, and the Minister and the Secretary of State acting jointly may by order made not later than the appointed day for the purposes of subsection (2) of this section, add to the said Schedule 7 or, as the case may be, to paragraph (a) or (b) of the said subsection (2), any body not for the time being listed therein if he is, or, as the case may be, they are, satisfied—

(a) that the activities of the body are similar to those of the bodies for the time being so listed, and

(b) that the Holding Company or a wholly-owned subsidiary thereof or, as the case may be, the Railways Board are for the time being the beneficial owners of any securities of that body.

(5) The rights and liabilities of the Holding Company under such agreements for the rendering of personal services by persons who immediately before the appointed day for the purposes of subsection (1) or, as the case may be, subsection (2) of this section, are employed by the Holding Company as may be determined in accordance with arrangements agreed between the Holding Company and the Bus Company or, as the

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case may be, between the Holding Company and the Scottish Group, or, in default of such agreement, in accordance with such arrangements as the Minister or, as the case may be, the Minister and the Secretary of State acting jointly may direct, shall on that day be transferred to, and by virtue of this Act vest in, the Bus Company or, as the case may be, the Scottish Group.

(6) Paragraph 2(3) and (4) of Schedule 4 to this Act shall apply to any transfer under subsection (5) of this section, and paragraphs 7 to 13 of that Schedule shall apply to any transfer under that subsection or under subsection (1) or (2) of this section; and in the application of any provision of that Schedule by virtue of this subsection to a transfer under the said subsection (2) any reference in that provision to the Minister shall be construed as a reference to the Minister and the Secretary of State acting jointly.

29 Transfer of certain property, rights and liabilities between Railways Board and Bus Company or Scottish Group. U.K.

(1) Before the appointed day for the purposes of the relevant transfer referred to in subsection (2) of this section, the Railways Board shall take steps to the satisfaction of the Minister to separate from the remainder of their undertaking the parts thereof concerned respectively—

(a) with the provision of road passenger transport services within or to and from the city of Sheffield, the county borough of Halifax, the county borough of Huddersfield or the borough of Todmorden; and

(b) with the provision of shipping services in Scotland by the Caledonian Steam Packet Company Limited, and with the provision by the Board of the ferry service to and from Kyle of Lochalsh and Kyleakin;

and the Board shall from time to time furnish the Minister with such information as he may require with respect to the property and interests which the Board propose to treat as included in each respectively of those parts of their undertaking, and the Minister may give directions to the Board as to the property, rights and liabilities to be so treated.

(2) Subject to subsection (3) of this section, on the relevant appointed day for the purposes of this subsection there shall be transferred to, and by virtue of this Act vest in, the Bus Company and the Scottish Group respectively, all the property, rights and liabilities comprised in the part of the Railways Board's undertaking referred to in paragraph (a) or, as the case may be, paragraph (b) of subsection (1) of this section.

(3) Schedule 4 to this Act shall apply to any transfer under subsection (2) of this section, and that subsection shall have effect subject to the provisions of that Schedule; and in the application of any provision of that Schedule to a transfer affecting the Scottish Group, any reference in that provision to the Minister shall be construed as a reference to the Minister and the Secretary of State acting jointly.

[[F104](4) Notwithstanding anything in section 4 of the Act of 1962, as from the appointed day for the purposes of the transfer under subsection (2) of this section to the Bus Company the Railways Board shall not have power to carry passengers by road except as permitted by subsection (1)(a)(iii) of the said section 4.**]**

(5) Subject to subsection (6) of this section—

(a) the Scottish Group and the Railways Board acting jointly may as occasion seems to them to require it make schemes for the transfer from one to another of the following bodies, namely, that Group, that Board and any wholly-owned subsidiary of that Group or Board, of any specified property, rights or

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liabilities, or of all property, rights or liabilities comprised in a specified part of their undertaking, being property, rights and liabilities held or subsisting for the purposes of or in connection with, or, as the case may be, a part of their undertaking concerned with, a transport service by water (including such a service by means of a hovercraft) which carries passengers and operates regularly between two or more points at least one of which is in Scotland;

(b) the Minister and the Secretary of State acting jointly may by order make any such provisions as aforesaid with respect to any of the bodies aforesaid.

(6) Subsections (3) to (7) of section 7 of this Act shall apply to any scheme, and subsections (3) to (6) of section 8 of this Act shall apply to any order, under subsection (5) of this section as they apply to a scheme under **[**F105subsection (1)(b) of the said section 7 or, as the case may be, to an order under subsection (1)(b) of the said section 8 making any such provision as is mentioned in the said section 7(1)(b), but as if for the reference in subsection (6)(a) of the said section 8 to the Railways Board there were substituted a reference to the Scottish Group and the Railways Board**]**.

Textual Amendments

F104 S. 29(4) repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 139(3), **Sch. 8**

F105 Words substituted by Transport Act 1980 (c. 34, SIF 126), **Sch. 7 para. 3**

Relaxation of control over certain bus services

30 . . . . . F106 **E+W+S**

Textual Amendments

F106 S. 30 repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. I**

31 Abolition of special control over bus services provided by local authorities outside their areas. E+W+S

(1) So much of subsection (1) of section 101 of the M10Road Traffic Act 1930 as requires a local authority to obtain the consent of the appropriate traffic commissioners before running public service vehicles outside the district of the authority shall cease to have effect, and accordingly—

(a) in that subsection for the words from "on any road within their district"to the end shall be substituted the words " on any road inside or outside their district "; and

(b) section 102 of that Act (which contains procedural provisions with respect to consents under subsection (1) of the said section 101) shall cease to have effect.

(2) Any provision in a local Act or in any order under Part VI of the M11Local Government Act 1933, Part VI of the M12Local Government (Scotland) Act 1947, or Part II of the M13Local Government Act 1958—

(a) imposing any requirement corresponding to that which ceases to have effect by virtue of the foregoing subsection; or

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(b) in relation to any such requirement, applying or making provision corresponding to the said section 102,

together with section 38(6) of the said Act of 1958 (which, in certain cases, requires orders under the said Part II to contain such provisions as aforesaid) shall cease to have effect.

Marginal Citations

M10 1930 c. 43.
M11 1933 c. 51.
M12 1947 c. 43.
M13 1958 c. 55.

Assistance for bus and ferry services

32 New bus grants. E+W+S

(1) Subject to the provisions of this section, the Minister may, with the approval of the Treasury, make in such cases as he thinks fit a grant to any person operating public service vehicles in Great Britain towards approved capital expenditure incurred by that person in providing a new vehicle of a type approved for the purposes of this section by the Minister, being a vehicle which is provided for use by that person **[**F107wholly or mainly in the operation of bus services**]** in Great Britain and which first becomes available to that person for such use on or after such date, not being earlier than 1st September 1968, as the Minister may by order specify.

(2) In the foregoing subsection—

(a) the expression "approved capital expenditure" means expenditure appearing to the Minister to be of a capital nature and approved by him for the purposes of grant under this section;

(b) the expression "expenditure" in relation to the provision by a person of a vehicle includes—

(i) expenditure consisting of instalments under a hire-purchase agreement within the meaning of the M14Hire-Purchase Act 1965 or, as the case may be, the M15Hire-Purchase (Scotland) Act 1965, or otherwise consisting of instalments of or payments towards the purchase price of, or cost of providing, the vehicle; and

(ii) where the vehicle is provided by being manufactured or wholly or partly constructed by that person, such sum as appears to the Minister to be properly attributable to its provision by him in that manner;

(c) the expression "new" means unused and not second-hand.

[F108(d) "bus service" has the same meaning as in section 92 of the M16Finance Act 1965**]**.

(3) In making any grant under this section in respect of any vehicle the Minister shall impose such conditions for securing that the vehicle will be used as mentioned in subsection (1) of this section, and may impose such other conditions, as he thinks fit; and those conditions may include conditions for repayment in specified circumstances.

(4) Subject to subsection (5) of this section, the amount of any grant under this section shall be twenty-five per cent. of the approved capital expenditure in respect of which

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it is granted, and no amount by way of such a grant shall be paid in respect of a vehicle which first becomes available for such use as is mentioned in subsection (1) of this section after the date of the expiration of the period of seven years beginning with the date specified under the said subsection (1).

(5) The Minister may by order made with the consent of the Treasury—

(a) vary, as respects any vehicle first becoming available for such use as is mentioned in subsection (1) of this section on or after such date as may be specified in the order, the percentage specified in subsection (4) of this section; or

(b) amend the said subsection (4) by substituting for the date of the expiration of the period there mentioned such later date as may be specified in the order;

but no order shall be made under this subsection unless a draft thereof has been approved by resolution of each House of Parliament.

(6) The provisions of Schedule 8 to this Act shall have effect for the purpose of avoiding fraudulent applications for grant under this section and of securing the observance of any conditions attached to any such grant.

Textual Amendments

F107 Words substituted by Transport Act 1980 (c. 34, SIF 126), **s. 62(2)**(*a*)

F108 S. 32(2)(*d*) inserted by Transport Act 1980 (c. 34, SIF 126), **s. 62(2)**(*b*)

Marginal Citations

M14 1965 c. 66.

M15 1965 c. 67.

M16 1965 c. 25.

33 U.K.

(1) F109

(2) F110

(3) So much of subsection (9) of the said section 92 as enables the Parliament of Northern Ireland to make laws for purposes similar to the purposes of the provisions of that section shall apply to those provisions as amended by subsection (1) of this section.

Textual Amendments

F109 S. 33(1) omitted by virtue of Finance Act 1974 (c. 30, SIF 126), **s. 54(1)**

F110 S. 33(2) repealed by Transport London Act 1969 (c. 35, SIF 126), **Sch. 6**

Modifications etc. (not altering text)

C37 The text of s. 33(3), which is spent, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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34 Assistance for rural bus or ferry services. E+W

(1) Any of the following councils, namely the council or any county,. . . F111 or [F112district] in England or Wales, any county, town or district council in Scotland, and the Council of the Isles of Scilly, or any two or more of those councils acting jointly, may, on such conditions, if any, as they think fit, afford assistance to any other person, by way of grant, loan or both, for the purpose of securing the provision, improvement or continuance of any. . . F113 ferry service if in the opinion of the council or councils in question that service is or will be for the benefit of persons residing in rural areas.

[F114(1A) The Council of the Isles of Scilly may, on such conditions, if any, as they think fit, afford assistance to any other person, by way of grant, loan or both, for the purpose of securing the provision, improvement or continuance of any bus service if in the opinion of that Council that service is or will be for the benefit of persons residing in rural areas.]

(2) F115

Extent Information

E1 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

F111 Words repealed by Local Government Act 1972 (c. 70, SIF 81:1), **Sch. 30**
F112 Word substituted by virtue of Local Government Act 1972 (c. 70, SIF 81:1), **s. 179(3)**
F113 Words repealed by Transport Act 1985 (c. 67, SIF 126), s. 139(2)(3), **Sch. 7 para. 10**(*a*), Sch. 8
F114 S. 34(1A) inserted by Transport Act 1985 (c. 67, SIF 126), s. 139(2), **Sch. 7 para. 10**(*b*)
F115 S. 34(2)(3) repealed by Local Government Act 1974 (c. 7), Sch. 1 para. 7, **Sch. 8**

[F62234 Assistance for rural bus or ferry service. S

(1) A regional, islands or district council or any two or more of those councils acting jointly, may, on such conditions, if any, as they think fit, afford assistance to any other person, by way of grant, loan or both, for the purpose of securing the provision, improvement or continuance of any bus service if in the opinion of the council or councils in question that service is or will be for the benefit of persons residing in rural areas.

(2) A regional or islands council or any two or more of those councils acting jointly, may, on such conditions, if any, as they think fit, afford assistance to any other person, by way of grant, loan or both, for the purpose of securing the provision, improvement or continuance of any ferry service if in the opinion of the council or councils in question that service is or will be for the benefit of persons residing in rural areas.

(3) The Secretary of State may, with the approval of the Treasury, make grants in such cases and subject to such conditions as he thinks fit to any of the councils aforesaid in respect of expenditure incurred by that council in making grants under subsection (1) or (2) above, and any grant under this subsection in respect of expenditure in connection with a bus service shall be of an amount equal to half the expenditure in respect of which the grant is made.

(4) The Secretary of State may, with the approval of the Treasury make grants in such cases and subject to such conditions as he thinks fit to regional or islands councils in

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respect of expenditure incurred by such a council in providing a ferry service which in the opinion of the council is or will be for the benefit of persons residing in rural areas.**]**

Textual Amendments

F622 S. 34 substituted by Local Government (Scotland) Act 1973 (c. 65, SIF: 81:2), **Sch. 18 para. 14**

Further provision relating to public service vehicles

35 **E+W+S**

(1) F116

(3) F117

Textual Amendments

F116 S. 35(1)(2) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. I**

F117 S. 35(3) repealed by Public Passenger Vehicles Act 1981 (c. 14, SIF 107:1), **Sch. 8**

36 . . . . . F118 **E+W+S**

Textual Amendments

F118 S. 36 repealed by Transport Act 1985 (c. 67, SIF 126), s. 139(3), **Sch. 8**

37 **Power for local authorities to acquire or dispose of public service vehicle undertakings.** **E+W+S**

(1) Without prejudice to any powers apart from this section, any local authority within the meaning of Part V of the Road Traffic Act 1930 who, under powers conferred by section 101(1) of that Act or by any local Act or order, are running public service vehicles may,. . .F119

(a) acquire by agreement the whole or any part of a public service vehicle undertaking carried on by any other person; or

(b) dispose of the whole or any part of the authority's public service vehicle undertaking to any other person, whether by purchase or sale, by lease, or by exchange or, in Scotland, excambion.

(2) F120

Textual Amendments

F119 Words repealed (E.W.)(S.) by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 29** and Local Government Act 1974 (c. 7, SIF 81:2), **Sch. 8**

F120 S. 37(2) repealed by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 29** and Local Government Act 1974 (c. 7, SIF 81:1), **Sch. 8**

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PART IV U.K.

FURTHER PROVISIONS AS TO BOARDS, NEW AUTHORITIES AND TRANSPORT SERVICES

Railways Board

38 Composition of Railways Board and removal of requirement for regional boards. U.K.

(1) In section 1(3) of the Act of 1962 (which relates to the composition of the Railways Board) for the words “shall consist of a chairman, a vice chairman, or two vice chairmen, and not more than sixteen nor less than ten other members" there shall be substituted the words “ shall consist of a chairman and not more than fifteen nor less than nine other members ”.

(2) The Minister may from time to time, if after consultation with the chairman of the said Board he thinks fit so to do, appoint one or more members of the Board to be deputy chairman or deputy chairmen, or vice chairman or vice chairmen, of the Board.

(3) A person appointed as deputy chairman or vice chairman of the said Board shall not by reason only of ceasing to be deputy chairman or vice chairman cease to be a member of the Board.

(4) F121

Textual Amendments

F121 S. 38(4) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

Modifications etc. (not altering text)

C38 The text of ss. 38(1), 41(8)(9), 44(4), 46(5), 50(10), 51(3), 52(4), 94(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

C39 The “said Board" means the Railways Board

39 . . . . . F122 E+W+S

Textual Amendments

F122 S. 39 repealed by Railways Act 1974 (c. 48), **s. 3(7)**

40 Grants pending elimination of surplus track and signalling equipment. E+W+S

(1) Subject to the provisions of this section, the Minister may, for each of the five years beginning with 1969, make to the Railways Board a grant towards the expenditure of the Board in respect of track and signalling equipment which is in that year in the possession of the Board but which is in that year, or is likely within those five years to become, surplus to their requirements.

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(2) The amount of any grant under this section shall be determined by the Minister after consultation with the Railways Board, and the amount of the grant for each of the said years shall be so determined before 1st January 1969 in such manner that—

(a) the amount for each year after the first is less than that for the preceding year; and

(b) the aggregate amount of the grants does not exceed £50 million.

(3) Any grant under this section shall be made on such terms and conditions as the Minister may determine.

(4) The approval of the Treasury shall be required for the making of any grant under this section and for any determination of the Minister under subsection (2) or (3) thereof.

(5) The report of the Railways Board under section 27(8) of the Act of 1962 for any year in respect of which a grant is made to the Board under this section shall include a statement of the amount of that grant.

Additional financial provisions with respect to Boards and new authorities

41 Financial provisions as to Boards and new authorities. U.K.

(1) This section applies to the following authorities, namely, the Boards and the new authorities.

(2) It shall be the duty of each of the authorities to whom this section applies so to perform their functions under the Act of 1962 or this Act as to secure that combined revenues of the authority and of their subsidiaries taken together are not less than sufficient to meet their combined charges properly chargeable to revenue account, taking one year with another.

(3) Each of the authorities to whom this section applies shall secure that their subsidiaries charge to revenue account in every year all charges which are proper to be made to revenue account, including, in particular, proper provision for the depreciation or renewal of assets.

(4) Notwithstanding anything in paragraph (a) of the proviso to section 18(4) of the Act of 1962, the purposes for which the moneys comprised in the general reserve of any of the authorities to whom this section applies may be applied shall include the purposes of any subsidiary of theirs.

(5) Subsection (1) of section 18 of the Act of 1962 shall cease to have effect, and references to that subsection in the Act of 1962 shall be construed as references to subsection (2) of this section.

(6) F123

(7) F124

(8) In section 22 of the Act of 1962 as amended by the Transport Finances Act 1966, subsections (2) and (3) (which relate to deficits on revenue account of the Railways Board or the London Board) and subsection (6) (which temporarily relieves those Boards of the obligation to establish a general reserve) shall cease to have effect.

(9) In section 24(2) of the Act of 1962 (under which a person is not qualified to be appointed as auditor of the accounts of a Board or new authority unless he is a member

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of one or more specified bodies) after the word “member" there shall be inserted the words “ or is a firm in Scotland each of the partners wherein is a member ”.

(10) For the purposes of subsections (2) and (3) of this section, the provisions of section 51(5) of this Act shall be disregarded.

Textual Amendments

F123 S. 41(6) repealed by Transport London Act 1969 (c. 35, SIF 126), **Sch. 6**

F124 S. 41(7) repealed by Transport Act 1981 (c. 35, SIF 126), **Sch. 12**

Modifications etc. (not altering text)

C40 The text of ss. 38(1), 41(8)(9), 44(4), 46(5), 50(10), 51(3), 52(4), 94(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

42 Additional financial provisions as to Railways Board. U.K.

(1) This section applies to the Railways Board.

(2) On 1st January 1969 there shall be extinguished—

(a) the part of the commencing capital debt of the Board under section 39 of the Act of 1962 which under section 40 of that Act constitutes the suspended debt of the Board on that date; and

(b) subject to subsection (3) of this section, such further part of the commencing capital debt of the Board as is required to be extinguished in order to reduce the commencing capital debt of the Board outstanding on that date to £300 million.

(3) Without prejudice to section 53(5) of this Act, the Minister may from time to time by order vary the amount **[**F125of the commencing capital debt of the Board as determined by or under any enactment for the time being in force, where that appears to him expedient to take account of any transfer of property, rights or liabilities under section 7(5) or (6) or 8(4) of this Act**]**.

(4) Any order under subsection (3) of this section may contain such transitional provisions as appear to the Minister expedient to take account of any interest underpaid or overpaid on the commencing capital debt of the Board.

(5) The Minister’s power to make an order under subsection (3) of this section shall be subject to the approval of the Treasury and any such order shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

(6) As from 1st January 1969, the aggregate amount outstanding in respect of—

(a) the principal of any money borrowed by the Board under section 19 of the Act of 1962; and

(b) the Board’s commencing capital debt,

shall not exceed **[**F126£1,100 million**]** or such greater sum not exceeding **[**F126£1,300 million**]** as the Minister may from time to time by order specify; but no order shall be made under this subsection unless a draft thereof has been approved by a resolution of the Commons House of Parliament.

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(7) The Board shall as soon as practicable after 1st January 1969 adjust their accounts so that the total net book value of their capital assets does not exceed the aggregate of the amount specified in subsection (2)(b) of this section and their other liabilities.

(8) If in any accounting year of the Board there is an excess of the revenue of the Board over the total sums properly chargeable by them to revenue, the Minister may, with the approval of the Treasury, require that excess, so far as it appears to him, after consultation with the Board, to be surplus to the requirements of the Board, to be paid over to the Minister, who shall pay it into the Consolidated Fund.

Textual Amendments

F125 Words substituted by Transport Act 1978 (c. 55, SIF 126), **s. 15(5)**(*b*)

F126 Words substituted by virtue of Transport (Finance) Act 1982 (c. 6, SIF 102), **s. 1**

43 Additional financial provisions as to Waterways Board. U.K.

(1) This section applies to the Waterways Board.

(2) The Minister or any other Minister of the Crown may, with the approval of the Treasury, from time to time make grants to the Board.

(3) On 1st January 1969—

(a) without prejudice to any further adjustment under section 53(5) of this Act, there shall be extinguished such part of the commencing capital debt of the Board under section 39 of the Act of 1962 as is required to be extinguished in order to reduce the commencing capital debt of the Board outstanding on that date to £3,750,000;

(b) F127

(4) F128

(5) If in any accounting year of the Board there is an excess of the revenue of the Board over the total sums properly chargeable by them to revenue, the Minister may, with the approval of the Treasury, require that excess, so far as it appears to him, after consultation with the Board, to be surplus to the requirements of the Board, to be paid over to the Minister, who shall pay it into the Consolidated Fund.

Textual Amendments

F127 S. 43(3)(*b*) and word "and" preceding it repealed by Transport (Financial Provisions) Act 1977 (c. 20, SIF 126), **s. 3(2)**(*b*)

F128 S. 43(4) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

44 Account by Minister of receipt and disposal of certain sums. U.K.

(1) The Minister shall, as respects each financial year, prepare in such form and manner as the Treasury may direct an account of, and of the disposal by him of, the following sums, namely—

(a) any sums issued to the Minister by the Treasury out of the National Loans Fund under section 20(3) of the Act of 1962 for the purpose of making loans—

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(i) under section 20(1) of that Act to any of the Boards; or

(ii) F129

(iii) under the said section 20(1) as applied by section. . . F130 27(1) of this Act to. . . F130 the Bus Company;

(b) any sums which, being received by the Minister—

(i) by way of interest on, or the repayment of, any such loan as aforesaid; or

(ii) by way of interest on, or the repayment of, the commencing capital debt under section 39 of that Act of any of the Boards. . . F131; or

(iii) by way of interest on, or the repayment of, the commencing capital debt of. . . F130 the Bus Company under Schedule 2 to this Act; or

(iv) in respect of any surplus of. . . F131 the Railways Board or the Waterways Board,

are required by section 20(5),. . . F131 or 39(8) of the Act of 1962, by section 42(8) or 43(5) of this Act, by the said section 20(5) as applied by the said section. . . F131,. . . F130 or 27(1), or by the said section 39(8) as applied by paragraph 1 of the said Schedule 2 to be paid by the Minister into the National Loans Fund or the Consolidated Fund, as the case may be.

(2) The Secretary of State shall, as respects each financial year, prepare in such form and manner as the Treasury may direct an account of, and of the disposal by him of, the following sums, namely—

(a) any sums issued to the Secretary of State by the Treasury out of the National Loans Fund under section 20(3) of the Act of 1962 for the purpose of making loans to the Scottish Group under section 20(1) of that Act as applied by section 27(1) of this Act;

(b) any sums which, being received by the Secretary of State—

(i) by way of interest on, or the repayment of, any such loan as aforesaid; or

(ii) by way of interest on, or the repayment of, the commencing capital debt of the Scottish Group under Schedule 2 to this Act,

are required by section 20(5) of the Act of 1962 as applied by the said section 27(1), or by section 39(8) of the Act of 1962 as applied by paragraph 1 of the said Schedule 2, to be paid by the Secretary of State into the National Loans Fund.

(3) The Minister and the Secretary of State shall each send every account prepared by him under subsection (1) or (2) of this section to the Comptroller and Auditor-General not later than the end of November following the year to which the account relates; and the Comptroller and Auditor-General shall examine, certify and report on the account and lay copies of it, together with his report, before each House of Parliament.

(4) In consequence of the foregoing provisions of this section—

(a) in section 20 of the Act of 1962, subsection (6) (which makes provision corresponding to this section in respect of certain of the sums aforesaid) shall cease to have effect; and

(b) in section 29(12) of that Act (which applies subsections (2) to (6) of the said section 29) for the words “subsections (2) to (6)" there shall be substituted the words “ subsections (2)(5) ”.

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Textual Amendments

F129 S. 44(1)(*a*)(ii) repealed by S.I. 1973/338, **Sch. 2**

F130 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F131 Words repealed by S.I. 1973/338, **Sch. 2**

Modifications etc. (not altering text)

C41 The text of ss. 38(1), 41(8)(9), 44(4), 46(5), 50(10), 51(3), 52(4), 94(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Additional duties of Boards and new authorities

45 Duty of Freight Corporation and Railways Board to review organisation. U.K.

(1) It shall be the duty—

(a) of the Railways Board forthwith after the appointed day for the purposes of this section,. . . F132

(b) F133

to undertake a review of the affairs of the Board. . . F134 for the purpose of determining whether the carrying on of their activities is organised, so far as regards the direction thereof, in the most efficient manner and to report their conclusions to the Minister, and so often thereafter as occasion seems to them to require it, or as the Minister may require, to undertake a further such review and to report similarly.

(2) Before reaching conclusions in consequence of a review undertaken in pursuance of subsection (1) of this section, the Board. . . F134 shall seek consultation with organisations appearing to them to represent substantial proportions of, or of any class of, the persons in the employment of, or of any subsidiary of, the Board. . . F134

(3) The first report under subsection (1) of this section by the Railways Board. . . F134 must be made before the expiration of the period of twelve months beginning with the appointed day referred to in paragraph (a) or, as the case may be, paragraph (b) of that subsection or such longer period as the Minister may allow.

(4) The Minister shall lay before each House of Parliament a copy of each report under subsection (1) of this section.

(5) After considering any report made to him under subsection (1) of this section, the Minister may give to the Railways Board. . . F134 such directions as, after consultation with **[**F135the Board**]**, appear to him to be requisite to secure that the carrying on of their. . . F132 activities is organised, so far as regards the direction thereof, in the most efficient manner.

(6) The Railways Board. . . F134 shall not make, or permit to be made, any substantial change in the manner in which the carrying on of their activities is organised, so far as regards the direction thereof, except—

(a) in pursuance of a direction given by the Minister under subsection (5) of this section. . . F136 or

(b) in accordance with a scheme duly approved under section 7 of this Act; or

(c) in accordance with an order under section 8 of this Act; or

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(d) with the consent of the Minister.

Textual Amendments

F132 Word repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F133 S. 45(1)(b) repealed by Transport Act 1980 (c. 34), **Sch. 9 Pt. III**

F134 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F135 Words substituted by Transport Act 1980 (c. 34, SIF 126), **Sch. 7 para. 4**

F136 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

Modifications etc. (not altering text)

C42 S. 45(5)(6) restricted (E.W.S.) (1.1.1993) by S.I. 1992/3060, **reg.4(2)**.

46 Duty of Boards and new authorities to promote research and development. U.K.

(1) This section applies to the following authorities namely, the Boards and the new authorities.

(2) It shall be incumbent on each of the authorities to whom this section applies to take such steps as appear to them to be practicable and desirable for promoting—

(a) research on lines settled from time to time with the approval of the Minister into matters affecting, or arising out of, the exercise of the functions of that authority or of any subsidiary of that authority; and

(b) the doing of such work as is requisite to enable—

(i) the results of any research into any such matter as aforesaid (whether or not promoted by that authority); and

(ii) anything resulting from any idea affecting, or arising out of, the exercise of any of those functions,

to be turned to account;

but nothing in this subsection shall be construed as imposing upon that authority, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which that authority would not otherwise be subject.

(3) An authority to whom this section applies may take such steps as aforesaid with respect to any matter either by themselves carrying out the necessary research or doing the necessary work or by arranging for that research to be carried out or that work to be done by some other person with or without assistance (including financial assistance) from that authority; but nothing in this section shall authorise any such authority to do themselves, either directly or through a subsidiary, any work such as is mentioned in subsection (2)(b) of this section which the authority would not have power to do apart from this section.

(4) In the application of this section to the Scottish Group, the reference to the Minister shall be construed as a reference to the Secretary of State.

(5) In section 27(3) of the Act of 1962 for the words “education and research" there shall be substituted the words “ and education ”.

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Modifications etc. (not altering text)

C43 The text of ss. 38(1), 41(8)(9), 44(4), 46(5), 50(10), 51(3), 52(4), 94(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Additional powers of Boards and new authorities

47 Extension to new authorities of certain functions of Boards. U.K.

(1) Without prejudice to the provisions of sections 48 to 52 of this Act, but subject to the provisions of this section—

(a) the following provisions of the Act of 1962 (which confer certain powers on the Boards), that is to say—

(i) section 11 (development of land);

(ii) section 12 (pipe-lines);

(iii) section 13 (powers of manufacture and production) other than subsection (2) thereof;

(iv) section 14 (supplementary powers);

(v) section 15 (compulsory purchase of land);

(vi) section 16 (working agreements involving the delegation of special statutory powers);

(vii) section 17 (power to promote and oppose Bills);

(viii) section 43(1) to (3) (power to make charges for services and facilities); and

(b) section 25 of the Act of 1962 (which relates to subsidiaries of the Boards),

shall have effect as if each of the new authorities were one of the Boards.

(2) In relation to the Bus Company and the Scottish Group, subsection (1)(a) of this section shall have effect as if sub-paragraphs (ii) and (v) thereof were omitted.

(3) In the application of sections 11, 13, 14, 17 and 25 of the Act of 1962 to the Scottish Group any reference to the Minister shall be construed as a reference to the Secretary of State.

(4) The reference in subsection (1) of section 16 of the Act of 1962 to a working agreement to which that section applies shall include a reference to any arrangements such as are mentioned in section 50(9) of this Act.

48 Manufacture, repair and supply. U.K.

(1) This section applies to the following authorities, namely, the Boards and the new authorities, but in its application to the Scottish Group any reference to the Minister shall be construed as a reference to the Secretary of State.

(2) Each of the authorities to whom this section applies shall have power—

(a) to manufacture for sale to outside persons (that is to say, to persons other than an authority to whom this section applies or a subsidiary of such an authority), and to repair for outside persons, anything which the authority consider can advantageously be so manufactured or, as the case may be, repaired by the

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authority by reason of the fact that the authority or a subsidiary of theirs have materials or facilities for, or skill in, the manufacture or repair of that thing connection with some existing activity of that authority or subsidiary;

(b) to sell to outside persons, and for that purpose to purchase, anything which is of a kind which the authority or a subsidiary of theirs purchase in the course of some existing activity of that authority or subsidiary;

(c) at any place where the authority, in the exercise of their powers under section 14(1)(d) of the Act of 1962, provide a car park, to repair motor vehicles for outside persons, and to sell to outside persons petrol, oil and spare parts and accessories for motor vehicles, and for that purpose to purchase any of those things, whether or not those persons are using the car park;

and the Waterways Board shall have power to sell goods of any description to outside persons, whether or not persons using their waterways, at any place where persons using those waterways may require facilities for the purchase of those goods, and for that purpose to purchase any such goods; and in paragraph (a) or (b) of this subsection the expression "existing activity" means, in relation to any activity at any time undertaken by virtue of that paragraph, any other activity already carried on at that time, including any such activity carried on by virtue of any provision of this section other than paragraph (c) of this subsection and other than the provisions of this subsection relating only to the Waterways Board.

(3) An authority to whom this section applies shall not engage in any activity authorised by subsection (2) of this section, and shall exercise their control over any subsidiary of theirs so as to ensure that the subsidiary does not engage in any such activity, unless the authority are satisfied that they or the subsidiary can do so without detriment to the duties imposed on the authority by the Act of 1962 or this Act.

(4) Each of the authorities to whom this section applies shall from time to time submit to the Minister for his approval proposals as to the manner in which any activities authorised by subsection (2) of this section or any activities of manufacture authorised by section 13 of the Act of 1962 are to be carried on by them or any subsidiary of theirs, and shall carry on, or, as the case may be, exercise their control over that subsidiary so as to ensure that the subsidiary carries on, those activities in accordance with the Minister's approval, and the Minister may—

(a) in approving any proposals, approve them subject to such modifications or subject to compliance with such conditions as he thinks fit; and

(b) at any time, after consultation with the authority, direct the authority to discontinue or, as the case may be, to exercise their control over any of their subsidiaries so as to require the subsidiary to discontinue, any of the activities which the authority or subsidiary are carrying on in accordance with the Minister's approval.

(5) The Minister shall publish, in such manner as he thinks fit, any proposals approved by him under subsection (4) of this section, and shall send copies of those proposals to the Confederation of British Industry and the Trades Union Congress.

(6) Each authority to whom this section applies shall include in the report in respect of any year required to be submitted by them under section 27(8) of the Act of 1962 such particulars as the Minister may, after consultation with the authority and with the approval of the Treasury, direct with respect to all or any of the activities authorised by subsection (2) of this section or the activities of manufacture authorised by section 13 of the Act of 1962 which have been carried on in that year by the authority or any of their subsidiaries.

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(7) The foregoing provisions of this section shall have effect notwithstanding subsection (1) of section 13 of the Act of 1962 (so far as it confines any authority's powers of manufacture, purchase and repair to those conferred by that section), and in that section—

subsection (2) (which relates to the powers of the Waterways Board to manufacture for sale and to repair plant and equipment of a kind ordinarily made for use in connection with the operation of an inland waterway);

subsection (3) (which is superseded by the provisions of subsection (4) of this section) except as respects proposals approved thereunder before the appointed day for the purposes of this section;

subsection (5) (which restricts the power of the Boards to manufacture road vehicles, bodies or chassis for road vehicles or major components of road vehicles);

subsection (6) (which restricts the power of the Boards to purchase or trade in road vehicles or in spare parts, accessories, petrol or oil for such vehicles and from engaging in the maintenance or repair of such vehicles, spare parts or accessories); and

subsection (7) (which restricts the power of the Boards to engage in shipbuilding),

shall cease to have effect.

(8) Section 29(7) of the Act of 1962 (which relates to manufacture or production by subsidiaries of the Holding Company) shall have effect as if each of the new authorities were one of the Boards.

(9) In this section references to manufacture include references to construction and production, references to repair include references to maintenance, and references to selling or purchasing include references to supplying, or, as the case may be, obtaining, by exchange, hire or hire-purchase.

Modifications etc. (not altering text)

C44 S. 48 restricted (6.1.1994) by 1993 c. 43, ss. 150(1)(o), 152(1), **Sch. 12 para. 6(4)**; S.I. 1993/3237, **art. 2(2)**

C45 S. 48(2) extended by Transport Act 1982 (c. 49, SIF 126), **Sch. 5 para. 5(1)(2)**

C46 Part of the text of s. 48(7), s. 49(1) and s. 50(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

49 Powers with respect to land. U.K.

(1) Where a Board or a new authority propose under section 11 of the Act of 1962 to develop any of their land for use otherwise than for the purposes of their business, the Minister may give his consent under subsection (4) of that section to the acquisition by that Board or authority by agreement of adjoining land for the purpose of developing it with the other land whether or not it appears to him that the other land cannot be satisfactorily developed unless the adjoining land is so acquired;and accordingly, in the said subsection (4), the words from "but the Minister" to "by the Board" (which preclude the Minister from giving his consent unless it so appears to him) shall cease to have effect.

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(2) A Board or new authority may exercise the power conferred by the said subsection (4) without the consent of the Minister in any case where the Minister has under subsection (3) of the said section 11 consented to the incurring by that Board or new authority of a substantial item of expenditure in developing land as aforesaid which includes expenditure proposed to be incurred in that exercise of that power.

(3) Notwithstanding anything in the said subsection (4), where a Board or new authority propose to dispose of any of their land they shall have power to acquire by agreement adjoining land for the purpose of disposing of it together with the other land; but the Board or new authority shall not incur any substantial item of expenditure under this subsection without the consent of the Minister, and the Minister may from time to time give directions to the Boards and the new authorities indicating what is to be treated for the purposes of this subsection as a substantial item of expenditure.

(4) Notwithstanding anything in the said subsection (4), the Railways Board and the Waterways Board shall each have power with the consent of the Minister to acquire land by agreement with a view to its development, whether by that Board or by some other person, for use otherwise than for the purposes of their business if that land—

(a) in the case of the Railways Board adjoins other land of that Board; or

(b) in the case of the Waterways Board adjoins any of the commercial or cruising waterways of the Board within the meaning of section 104 of this Act,

and the Minister is satisfied that the land acquired will be so connected by rail or so situated in relation to a railway line or, as the case may be, will be so connected by waterway to, or is so situated in relation to, that commercial or cruising waterway that the rail services of the Railways Board or, as the case may be, the waterway services of the Waterways Board can be directly used by the person for the time being occupying the land proposed to be acquired.

(5) In the application of subsections (1) to (3) of this section to the Scottish Group, any reference therein to the Minister shall be construed as a reference to the Secretary of State.

(6) F137

Textual Amendments

F137 S. 49(6) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

Modifications etc. (not altering text)

C47 S. 49 restricted (E.W.S.) (1.1.1993) by S.I. 1992/3060, **reg.4(2)**.

C48 Part of the text of s. 48(7), s. 49(1) and s. 50(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

50 Miscellaneous provisions as to powers. U.K.

(1) In addition to their power under the provisions of sections 3(3)(e), 9(2)(c) or 10(3)(f) of the Act of 1962 to store certain goods and to use certain premises to provide facilities for the storage of other goods, the Railways Board,. . . F138 and Waterways Board shall each have power, with the consent of the Minister, to provide such facilities at any other premises; and the said section 3(3)(e) shall apply to goods which have been or

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are to be carried by a subsidiary of the Railways Board as it applies to goods which have been or are to be carried by that Board.

(2) The Railways Board shall have power to provide and manage hotels in any part of Great Britain and, with the consent of the Minister, elsewhere;and the following provisions of the Act of 1962, that is to say—

section 6 (which permits the Board to provide hotels only in places where those using the railway services provided by the Board may require them and to exercise their power of managing hotels only with the consent of the minister); and

section 25(3) (which prevents the Board from having any subsidiary, other than the Hotel Company, which owns or manages a hotel),

shall cease to have effect.

(3) The Waterways Board, the Bus Company and the Scottish Group shall each have power to provide and manage hotels in places where those using the inland waterways owned or managed by the Waterways Board or, as the case may be, the transport services provided by the Bus Company or Scottish Group may require them, for use both by those and other persons.

(4) In subsections (2) and (3) of this section the references to hotels include references to any other form of residential accommodation or facilities, including caravan and camping sites, for travellers or persons on holiday; and the said subsection (3) shall be without prejudice to the powers of the Waterways Board, the Bus Company or the Scottish Group under section 14(1)(d) of the Act of 1962 to provide amenities and facilities for persons for whom they do not provide residential accommodation or facilities.

(5) In addition to the powers of the Waterways Board to provide the transport services by road authorised by section 10(3)(c) of the Act of 1962 (carriage of goods which have been or are to be carried by the Board by inland waterway and carriage of goods where the use of an inland waterway owned or managed by the Board has been temporarily interrupted), that Board shall have power, with the consent of the Minister, to provide other transport services by road for the carriage of goods and to carry goods by those services.

(6) Without prejudice to the powers of the Waterways Board apart from this subsection, that Board shall have power to provide services and facilities for the use for amenity or recreational purposes (including fishing) of the inland waterways and reservoirs owned or managed by them.

(7) Each of the Boards and new authorities shall have power to provide for any person technical advice or assistance, including research services, as respects any matter in which the Board or new authority have skill or experience.

(8) Without prejudice to their powers apart from this subsection, each of the Boards and the new authorities shall have power to form, promote and assist, or join with any other person in forming, promoting and assisting, a company for carrying on any activities which that Board or new authority have power to carry on.

(9) Where a company for carrying on any activities which any of the Boards or new authorities have power to carry on has been formed in the exercise of the powers conferred by subsection (8) of this section by that Board or new authority, whether alone or jointly with some other person, or where in the exercise of their powers under paragraph (a) of section 14(1) of the Act of 1962 any of the Boards or new authorities

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have entered into an agreement with any person for the carrying on by that person, whether as agent for that Board or new authority or otherwise, of any of the activities which that Board or new authority may themselves carry on, then, without prejudice to their powers under paragraph (b) of the said section 14(1), that Board or new authority may, with the consent of the Minister, or, in the case of the Scottish Group, with the consent of the Secretary of State, enter into arrangements with that company or person for the transfer from that Board or new authority to that company or person, in such manner and on such terms (including payments by any of the parties to the arrangements to any other of them) as may be provided for by the arrangements, of any property, rights or liabilities of that Board or new authority relevant to the carrying on of those activities.

(10) In section 43(3) of the Act of 1962, after the word “recover" there shall be inserted the words “ or waive ”.

Textual Amendments

F138 Words repealed by Transport Act 1981 (c. 56, SIF 126), **Sch. 12**, Pt. I

Modifications etc. (not altering text)

C49 Part of the text of s. 48(7), s. 49(1) and s. 50(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

C50 S. 50(7)—(10) extended by Transport (London) Act 1969 (c. 35), **s. 6(2)**

C51 The text of ss. 38(1), 41(8)(9), 44(4), 46(5), 50(10), 51(3), 52(4), 94(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

51 Subsidiaries and joint subsidiaries. U.K.

(1) This section applies to the following authorities, namely, the Boards and the new authorities.

(2) For the purposes of paragraphs (d), (f), (g) and (h) of section 14(1) of the Act of 1962, services and facilities provided by, persons employed by, or equipment of, a subsidiary of an authority to whom this section applies, and, for the purposes of section 15(1) of that Act, land required for the purposes of the business of a wholly-owned subsidiary of such an authority, shall be deemed to be services and facilities provided by, persons employed by, equipment of, or land required for the purposes of the business of, that authority; and section 43(1) to (3) of the Act of 1962 shall apply to any subsidiary of an authority to whom this section applies as they apply to that authority.

(3) In section 27(1) of the Act of 1962 (which empowers the Minister or, as the case may be, the Secretary of State to give directions of a general character as to the exercise and performance by any authority to whom this section applies of their functions in relation to matters which appear to him to affect the national interest) after the word “functions" there shall be inserted the words “ (including the exercise of rights conferred by the holding of interests in companies) ”.

(4) A wholly-owned subsidiary of an authority to whom this section applies shall not be regarded as a common carrier when carrying on any activity which that authority have power to carry on and in carrying on which that authority are not to be so regarded.

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(5) Where a company of which two or more authorities to whom this section applies are members would, if those authorities were a single body corporate, be a wholly-owned subsidiary of that body corporate, then, whether or not that company is apart from this subsection a subsidiary of one of those authorities, that company shall be deemed for the purposes of the Act of 1962 and of the provisions other than Parts V and VI of this Act to be a wholly-owned subsidiary of each of those authorities; and any such company is hereafter in this section referred to in relation to each of those authorities as a "joint subsidiary" of that authority.

(6) In the case of a joint subsidiary, section 25(1) of the Act of 1962 shall not apply but it shall be the joint duty of both or all the authorities of which it is a joint subsidiary to exercise their control over the subsidiary so as to ensure that the subsidiary—

(a) does not engage in activities in which none of those authorities have power to engage (including activities in which none of those authorities have power to engage because the consent of the Minister has not been obtained), and

(b) does not do anything which the Minister has directed any of those authorities not to do, and

(c) does not, except with the consent of the Minister, borrow money from any person other than those authorities, and

(d) does not, except with the consent of the Minister, raise money by the issue of shares or stock to any person other than those authorities;

and the Minister may give to those authorities such directions as appear to him appropriate for ensuring that they carry out the duty imposed on them by this subsection.

(7) In the application of subsection (6) of this section to a joint subsidiary of the Scottish Group, any reference in that subsection to the Minister shall be construed as including a reference to the Secretary of State.

Modifications etc. (not altering text)

C52 The text of ss. 38(1), 41(8)(9), 44(4), 46(5), 50(10), 51(3), 52(4), 94(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

C53 S. 51(5) excluded by Transport Act 1978 (c. 55), **s. 15(4)**

C54 S. 51(5)(6) modified by London Regional Transport Act 1984 (c. 32, SIF 126), **s. 62(3)(4)**

52 Supplementary and miscellaneous provisions. U.K.

(1) Section 14(6) of the Act of 1962 (which provides that the powers conferred by the foregoing provisions of that Act are cumulative and that those provisions relate only to the capacity as a statutory corporation of any authority on whom those powers are conferred and that nothing in those provisions shall be construed as authorising the disregard by any such authority of any enactment or rule of law) shall apply to any powers conferred on any Board or new authority by any provision of this Act and to the provision of this Act conferring that power as it applies to the powers and provisions mentioned in the said section 14(6).

(2) For the purposes of section 15 of the Act of 1962 (which confers on the Boards. . . [F139] powers of compulsory purchase for the purpose of their business) activities carried on

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by any of the Boards. . . [F139] by virtue of section 48 or subsections (1) to (7) of section 50 of this Act shall be deemed not to form part of the business of the Board. . . [F139].

(3) Sections 27, 28 and 89 of the Act of 1962 (which relate respectively to the powers of the Minister to give directions to the Boards, to powers exercisable subject to the Minister's consent, and to the duty to give effect to the Minister's directions) shall apply to each of the new authorities as if they were one of the Boards and, in their application to the Scottish Group, as if any reference therein to the Minister were a reference to the Secretary of State; and any reference in the said section 27 or 89 to that Act or in the said section 28 to the foregoing provisions of that Act shall include a reference to this Act.

(4) In Schedule 1 to the Act of 1962, for paragraph 4 (which relates to the authentication of the application of the seal of a Board) there shall be substitututed the following:—

"4 The application of the seal of any Board shall be authenticated by the signature of the secretary of the Board or some other person authorised by the Board, either generally or specially, to act for that purpose."

(5) It is hereby declared that none of the new authorities are to be regarded as the servant or agent of the Crown, or as enjoying any status, immunity or privilege of the Crown, or (subject to the provisions of sections 160, 161 and 162 of this Act) as exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local, and that their property is not to be regarded as property of, or property held on behalf of, the Crown.

Textual Amendments

F139 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

Modifications etc. (not altering text)

C55 S. 52 amended by Transport Act 1980 (c. 34, SIF 126), **Sch. 5 para. 5(1)(2)**

C56 The text of ss. 38(1), 41(8)(9), 44(4), 46(5), 50(10), 51(3), 52(4), 94(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Power to dissolve Holding Company, etc.

53 Provisions with respect to Holding Company. U.K.

(1) The Minister may by order, which shall be subject to annulment in pursuance of a resolution of either House of Parliament—

(a) transfer any such property, rights and liabilities of the Holding Company as may be specified in the order, being property, rights or liabilities not already transferred under section 4 or 28 of this Act or this paragraph, from the Holding Company to such other person, being either a publicly-owned body (that is to say, a body established for the carrying on of any industry or part of an industry, or of any undertaking, under national ownership or control, or a wholly-owned subsidiary of a body so established) or a Minister of the Crown, as may be specified in the order;

(b) . . . . . [F140]

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(c) where by virtue of paragraph (a). . . [F140] of this subsection any property, rights and liabilities are transferred to, or to a subsidiary of, any of the Boards or the new authorities, confer on the Board or new authority in question any powers necessary to ensure the continued carrying on of any activities carried on before the transfer which would otherwise fall by virtue of section 25 of the Act of 1962 or section 51(6) of this Act to be discontinued after the transfer.

(2) In the case of any order made by virtue of paragraph (a). . . [F140] of subsection (1) of this section, the property, rights and liabilities in question shall on such date as may be appointed for the purpose by the order be transferred, and by virtue of this Act vest, in accordance with the order; and Schedule 4 to this Act shall apply to any transfer under this subsection.

(3) Any order under subsection (1) of this section may contain such supplementary, incidental and consequential provision as may appear to the Minister to be necessary or expedient, and in particular, in the case of an order by virtue of paragraph (b) of that subsection, may make provision—

(a) for the preparation by such person or persons as may be specified in the order of a statement or statements of the Holding Company's accounts for the period from the end of that dealt with in the last annual statement of accounts published by that Company down to the date of the dissolution of that Company;

(b) for the auditing of any such statement of accounts;

(c) for the making to the Minister by such person or persons as may be specified in the order of a report or reports on the exercise and performance by the Holding Company of their functions during any period not dealt with in the reports made by that company under section 29(16) of the Act of 1962;

(d) repealing any provision of the Act of 1962 or of this or any other Act which the Minister is satisfied has become unnecessary in consequence of the dissolution of the Holding Company.

(4) The Minister may, with the consent of the Treasury, pay to any person upon whom duties are imposed by virtue of subsection (3)(a) to (c) of this section such remuneration, and such allowances in respect of expenses, as the Minister may with the agreement of the Treasury determine.

(5) The Minister may from time to time by order—

(a) vary the commencing capital debt under section 39 of the Act of 1962 of the Holding Company or of any of the Boards or under Schedule 2 to this Act of any of the new authorities; or

(b) extinguish the liability of the Holding Company in respect of all or any sums lent to that Company by the Minister under section 29(12) of the Act of 1962 on or after 1st January 1963,

where that appears to the Minister expedient to take account of any transfer of property, rights and liabilities—

(i) in the case of the Holding Company, under section 4 or 28 of this Act or under subsection (1) of this section;

(ii) in the case of any of the Boards or new authorities, under the said subsection (1);

and any such order may contain such transitional provisions as appear to the Minister expedient to take account of any interest underpaid or overpaid on the commencing

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capital debt of the authority in question or on the sums referred to in paragraph (b) of this subsection.

(6) On requiring any of the new authorities to make provisional payments under paragraph 2 of Schedule 2 to this Act in respect of the commencing capital debt of that new authority, the Minister may by notice in writing to the Holding Company specify what part of those payments is to be treated as attributable to transfers to that new authority from the Holding Company under section 4 or 28 of this Act; and where such notice is given, then, in respect of any period in respect of which those provisional payments are made, the liability of the Holding Company to make payments of interest under section 39(6) or 20(2) of the Act of 1962 on the commencing capital debt of, or loans to, that Company shall be correspondingly reduced.

(7) For the purposes of any order made by virtue of paragraph (a) of subsection (5) of this section with respect to the Scottish Group, any reference in that subsection to the Minister shall be construed as a reference to the Minister and the Secretary of State acting jointly.

(8) The power of the Minister or of the Minister and the Secretary of State acting jointly to make an order under subsection (5) of this section shall be subject to the approval of the Treasury and any such order shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

Textual Amendments

F140 Words repealed by Transport Holding Company Act 1972 (c. 14, SIF 126), **s. 1(3)**

Modifications etc. (not altering text)

C57 S. 53 amended and extended by Transport Holding Company Act 1972 (c. 14, SIF 126), **s. 1(3)(4)(6)**

Miscellaneous further provisions with respect to transport services

54 Railway closures. E+W+S

(1) In discharging any of his functions under subsection (8) or (10) of section 56 of the Act of 1962 or under subsection (5) of this section in relation to, or to a proposal by the Railways Board or **[**[F141]the London Board**][**[F141]London Regional Transport**]** for, the discontinuance of all railway passenger services from any station or on any line (hereafter in this section, as in that section, referred to as a closure), the Minister shall have regard to any matters which for the time being appear to him to be relevant, including any social or economic considerations, and shall not give his consent to a proposed closure—

(a) unless he is satisfied that a reasonable opportunity has been afforded for the making to the Minister of representations with respect to the closure by or on behalf of persons who are employed by the Board concerned for the purposes of, or in connection with, the services in question and who appear to the Minister to be likely to be directly affected by the closure; or

(b) before he has considered any representations made while that opportunity remains available which he is satisfied are either made by such persons as aforesaid or made on behalf of such persons by an organisation appearing to him to represent such persons.

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(2) In the case of a proposed closure of a station from which, or of a line on the whole or part of which, railway passenger services fall to be provided by the Railways Board in pursuance of an agreement under section 20(2)(b) of this Act with the Executive for an area **[**F142which is a passenger transport area for the purposes of Part II of this Act**]**, the Board shall not publish a notice of that closure in pursuance of subsection (7) of the said section 56 without the consent of that Executive to its publication; and if the Board publish the notice before obtaining that consent, the notice shall be of no effect unless before the expiration of the period fixed by the notice for objecting to the closure either—

(a) the Executive have informed the Board in writing that they consent to the publication; or

(b) the Minister, on an application made for the purpose by the Board, whether before or after the publication of the notice, and after affording the Executive what the Minister considers a reasonable opportunity to make any representations, has directed that the notice shall have effect notwithstanding that the Executive have not consented to its publication;

but the giving by the Executive of their consent to publication of a notice in pursuance of the said subsection (7) shall not affect the right of the Executive under subsection (4) of this section to oppose the closure.

(3) Where, in the case of any proposed closure, subsection (2) of this section does not apply but the proposal is for the closure of a station, or of the whole or part of a line, which is situated within **[**F143any such area as is mentioned in that subsection**]**, the Railways Board shall send to the Executive for that area a copy of the notice of the closure published by the Board in pursuance of the said subsection (7).

(4) Where, in the case of any closure to which subsection (2) or (3) of this section applies, notice of the closure has been published by the Railways Board in pursuance of the said subsection (7) (not being a notice which under the said subsection (2) is of no effect), the Executive concerned may, within the period specified in the notice for objecting to the closure, lodge with the Minister a statement in writing that they oppose the closure and of their reasons therefor; and where the Executive lodge such a statement with the Minister they shall send a copy of that statement to the Board and, notwithstanding that no objection is lodged in accordance with subsection (8) of the said section 56, the closure shall not be proceeded with until the Minister has given his consent.

(5) In the case of any closure requiring the consent of the Minister under the said section 56 or under subsection (4) of this section—

(a) the Minister may give his consent subject to such conditions as he thinks fit, including conditions to be complied with after the closure;

(b) **[**F144subject to section 119(4) of the Transport Act 1985**]** the Minister may from time to time vary or revoke the conditions for the time being required to be complied with in connection with the closure, whether the closure took place before or after the coming into force of this subsection;

(c) those conditions may include conditions **[**F145requiring the Railways Board to provide or (as the case may be) secure the provision of alternative services; and**]**

(d) whether before or after the closure, and whether the closure took place before or after the coming into force of this subsection, the Minister may from time to time give such directions to the Railways Board or, **[**F146(as the case may be) to London Regional Transport or, in relation to services provided by a

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subsidiary of London Regional Transport, to that subsidiary,. . . F147**]**. . . F147, as he thinks fit in connection with the closure;

and where any such condition or direction relates to the provision or assistance in the provision of alternative services, the Minister. . . F148 may refer to an Area Committee within the meaning of the said section 56 any matter relating to those services, and the committee shall consider and report on that matter to the Minister. . . F148.

(6) F149

(7) For the purposes of **[**F150subsection (5)**]** of this section any conditions imposed under subsection (11) of the said section 56, so far as still required to be complied with immediately before the coming into force of the said subsection (5), shall have effect as if imposed under the said subsection (5).

(8) F151

Textual Amendments

F141 Words “London Regional Transport" substituted for words “the London Board" in relation to services provided by London Regional Transport by virtue of London Regional Transport Act 1984 (c. 32, SIF 126), **s. 42(3)(6)**(*a*)

F142 Words substituted by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para 16**(*a*)

F143 Words substituted by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 16**(*b*)

F144 Words inserted by Transport Act 1985 (c. 67, SIF 126), **s. 123(8)**(*a*)

F145 Words substituted by Transport Act 1985 (c. 67, SIF 126), **s. 123(8)**(*b*)

F146 Words inserted by London Regional Transport Act 1984 (c. 32,SIF 126), **Sch. 6**

F147 Words repealed by Transport Act 1985 (c. 67, SIF 126), **ss. 123(8)**(*c*), 139(3), Sch. 8

F148 Words repealed by Transport Act 1985 (c. 67, SIF 126), **s. 123(8)**(*d*)

F149 S. 54(6) repealed by Transport Act 1985 (c. 67, SIF 126), ss. 123(9), 139(3), **Sch. 8**

F150 Words substituted by Transport Act 1985 (c. 67, SIF 126), **s. 123(9)**

F151 Ss. 54(8), 55(5) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

Modifications etc. (not altering text)

C58 S. 54(1) amended by London Regional Transport Act 1984 (c. 32, SIF 126), **s. 42(3)(5)(6)**

55 Amendments as to Transport Consultative Committees. U.K.

(1) The services and facilities in relation to which, under section 56 of the Act of 1962, the duty imposed, subject to the subsequent provisions of that section, by subsection (4) thereof on the Consultative Committees established under that section falls to be exercised—

(a) shall not include any services or facilities provided by the Waterways Board or provided by virtue of section 48 or section 50(2) or (7) of this Act; but

(b) subject to paragraph (a) of this subsection shall, in addition to the services and facilities provided by any of the Boards other than the Waterways Board, include the services and facilities provided by any of the following bodies, namely,. . . F152 any subsidiary. . . F152 of any of the Boards other than the Waterways Board;

and accordingly—

(i) the reference in the said subsection (4) to any of the Boards shall be construed as a reference to any of the bodies aforesaid;

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(ii) the reference in paragraph (b) of that subsection to a Board shall be construed as excluding a reference to the Waterways Board. . . F152;

(iii) the references in that subsection and in subsection (6) of the said section 56 to the Board concerned shall be construed as a reference to whichever of the Boards. . . F152 are concerned either directly or through a subsidiary of theirs;

(iv) F153

and for the purposes of this subsection the provisions of section 51(5) of this Act shall be disregarded.

(2) Without prejudice to the provisions of section 54 of this Act and of the foregoing subsection, the services and facilities in relation to which, under section 56 of the Act of 1962, the duty imposed, subject to the subsequent provisions of that section, by subsection (4) thereof on the Area Committee for Scotland established under that section falls to be exercised shall include the services and facilities provided by **[**F154Caledonian MacBrayne Limited**]**; and for the purposes of this subsection the said section 56 shall have effect subject to the following modifications, that is to say—

(a) in relation to **[**F155Caledonian MacBrayne Limited**]**, the Central Committee shall have no functions, and the Area Committee for Scotland shall have no functions in relation to the Central Committee;

(b) for references to the Minister in subsections (4) and (6) there shall be substituted references to the Secretary of State;

(c) the reference in subsection (4)(b) to a Board shall be construed as a reference to **[**F156Caledonian MacBrayne Limited**]**, and the references in that subsection and in subsection (6) to the Board concerned shall be construed as a reference to **[**F156Caledonian MacBrayne Limited**]**;

(d) in subsection (15) for the words from the beginning to "Minister", where second occurring, there shall be substituted the words " The Area Committee for Scotland shall make an annual report to the Secretary of State on the services and facilities provided by the Scottish Group and their subsidiaries in relation to which the Committee have functions under subsection (4) of this section, and the Secretary of State ".

(3) In the case of each of the Consultative Committees aforesaid, the Minister shall provide, or make arrangements under subsection (4) of this section for providing, that committee with such officers and servants, and such office accommodation, as appear to the Minister, after consultation with the committee, to be requisite for the proper discharge of the committee's functions and shall defray any expenditure incurred by the committee with the Minister's approval in the discharge of those functions; and the Minister may pay to the members of any such committee allowances in respect of loss of remunerative time in accordance with such scale as the Minister may with the approval of the Treasury allow and such travelling allowances and allowances in respect of out-of-pocket expenses as the Minister may determine.

(4) The Minister may, in the case of any such committee, instead of himself providing the officers and servants or office accommodation aforesaid, arrange with any of the Boards other than the Waterways Board. . . F152 for those officers and servants or that accommodation to be provided by that Board. . . F152in return for such payments by the Minister to the Board. . . F152 as may be agreed between them.

(5) F157

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Textual Amendments

F152 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F153 S. 55(1)(iv) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F154 Words substituted by S.I. 1990/552, art. 3(1), **Sch. 1**

F155 Words substituted by S.I. 1990/552, art. 3(1), **Sch. 1**

F156 Words substituted by S.I. 1990/552, art. 3(1), **Sch. 1**

F157 Ss. 54(8), 55(5) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

Modifications etc. (not altering text)

C59 S. 55(3) modified by Railways Act 1974 (c. 48, SIF 102), **s. 9(1)**

56 Assistance by Minister or local authority towards capital expenditure on public transport facilities. E+W+S

(1) Subject to subsections (3) and (4) of this section, the Minister may with the approval of the Treasury make grants upon such terms and conditions as the Minister thinks fit to any person towards expenditure appearing to the Minister to be of a capital nature incurred or to be incurred by that person for the purpose of the provision, improvement or development of facilities for public passenger transport in Great Britain.

(2) Subject to subsections (3) and (4) of this section, any local authority, or any two or more local authorities acting jointly, may make payments, upon such terms and conditions as they think fit, to any other person towards expenditure appearing to the authority or authorities in question to be of a capital nature incurred or to be incurred by that other person for the purpose of the provision, improvement or development of any facilities for public passenger transport if it appears to the authority or each of the authorities in question that those facilities are or will be of benefit to the area of that authority.

(3) No grant under subsection (1) of this section and no payment under subsection (2) thereof shall be made for the purposes of the provision, improvement or development of an airfield, a harbour, or (except when used or to be used for the purposes of a ferry service) a dock, pier or jetty.

[F158(3A) Nothing in subsection (3) of this section precludes the making of grants under subsection (1) or payments under subsection (2) thereof for the purposes of the provision, improvement or development of facilities for or in connection with public passenger transport by land to or from an airfield, harbour, dock, pier or jetty.**]**

[F159(4) No grant under subsection (1) of this section shall be made for any purpose unless the Secretary of State is satisfied that the provision, improvement or development of the facilities in question is appropriate in the light of—

(a) any general policies formulated by a Passenger Transport Authority under section 9A(1) or (5) of this Act;

(b) any general policies formulated by a non-metropolitan county council under section 63(1) or by a regional or islands council under section 63(2) of the Transport Act 1985 (policies with respect to services to be secured to meet public transport requirements within the county); and

(c) any measures adopted by such a council under subsection (6) of that section (measures for promoting co-ordination of services and convenience of the public in using services for their area);

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which are relevant to the need for facilities of the description in question in the locality in which they are, or are to be, provided; and no payment under subsection (2) of this section shall be made for any purpose unless the local authority or local authorities in question are so satisfied.**]**

(5) Where a person has used or proposes to use an asset of his for the purpose of the provision, improvement or development of facilities for public passenger transport, the Minister or, as the case may be, the local authority or local authorities in question may for the purposes of this section treat as expenditure of a capital nature incurred or to be incurred by that person for that purpose such amount not exceeding the capital value of that asset as the Minister or, as the case may be, the local authority or authorities in question may determine to be appropriate.

(6) In this section the expression "local authority" means—

(a) the council of any county,. . . F160 or **[**F161district**]** in England or Wales;

(b) F162

[F163(bb) a metropolitan county passenger transport authority;**]**

(c) the Council of the Isles of Scilly; or

(d) any **[**F164regional or islands**]** council in Scotland;

and in the application of this section to Scotland or Wales any reference to the Minister shall be construed as a reference to the Secretary of State.

Textual Amendments

F158 S. 56(3A) inserted (*retrospectively*) by 1993 c. 43, **s. 138(3)**; S.I. 1994/571, **art. 5**

F159 S. 56(4) substituted by Transport Act 1985 (c. 67, SIF 126), s. 139(2), **Sch. 7 para. 12**

F160 Words repealed by Local Government Act 1972 (c. 70, SIF 81:1), **Sch. 30**

F161 Word substituted by virtue of Local Government Act 1972 (c. 70, SIF 81:1), **s. 179(3)**

F162 Words repealed by London Regional Transport Act 1984 (c. 32, SIF 126), **s. 71(3)**(*b*), Sch. 7

F163 S. 56(6)(*bb*) inserted by Local Government Act 1985 (c. 51, SIF 81:1), s. 39, **Sch. 12 para. 3(1)**

F164 Words substituted by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 18 para. 16**

Modifications etc. (not altering text)

C60 S. 56 amended by Local Government Act 1974 (c. 7, SIF 81:1), Sch. 1 paras. 6, 8, **9** and Local Government (Scotland) Act 1975 (c. 30, SIF 81:2), **s. 14(1)(3)**

C61 S. 56(1) excluded by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 2(3), 45, **Sch. 7 Pt. VI para. 2**

C62 S. 56(1) restricted by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 42(3), 45, **Sch. 7 Pt. VI para. 2**

C63 S. 56(2) restricted by London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 5 para. 16**

57 Grants for research or development in connection with transport services, etc. U.K.

The Minister shall have power with the approval of the Treasury to make grants upon such terms and conditions as he thinks fit to any person towards expenditure incurred or to be incurred by that person—

(a) in carrying out research in connection with the provision or improvement of transport services by land or inland waterway or of harbour facilities; or

(b) in developing for the purposes of the provision or improvement of such services or facilities the results of any research carried out by, or any invention or idea of, that or any other person.

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VALID FROM 01/04/2001

[F165 57A Grants for research or development in connection with transport services by inland waterways in Scotland U.K.

Without prejudice to the Minister's power to make grants for research or development in connection with transport services by inland waterways in Scotland under section 57, the Scottish Ministers may make grants upon such terms and conditions as they think fit to any person towards expenditure incurred or to be incurred by that person–

(a) in carrying out research in connection with the provision or improvement of transport services by inland waterway in Scotland; or

(b) in developing for the purposes of the provision or improvement of such services or facilities the results of any research carried out by, or any invention or idea of, that or any other person.**]**

Textual Amendments

F165 S. 57A inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(16)** (with art. 4)

58 . . . . . F166 U.K.

Textual Amendments

F166 S. 58 repealed by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 29**

PART V E+W+S

REGULATION OF CARRIAGE OF GOODS BY ROAD

Modifications etc. (not altering text)

C64 Pt. V extended by International Road Haulage Permits Act 1975 (c. 46, SIF 126), **s. 1(8)**; modified by S.I. 1980/637, reg. 34(1), **Sch. 5** and S.I. 1984/176 regs. 7(2), 32(3), Sch. 4 amended by S.I. 1984/176 reg. 36(7)

C65 Part. V (ss. 59–94) modified by S.I. 1984/176, **reg. 9(4)** (as substituted by S.I. 1987/841, **reg. 5**)

C66 Part. V (ss. 59–94) modified by Companies Act 1989 (c. 40, SIF 27), s. 144(4), **Sch. 18 para. 7**

The licensing authority

59 The licensing authority for Part V. E+W+S

[F167 (1) The traffic commissioner for any traffic area constituted for the purposes of the Public Passenger Vehicles Act 1981 shall exercise the functions conferred on him by this Part of this Act and is in this Part of this Act referred to as "the licensing authority."**]**

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(2) In the exercise of his functions under this Part of this Act. . . [F168] the licensing authority shall act under the general directions of the Minister.

(3) . . . . . [F169]

(4) . . . . . [F170]

Textual Amendments

F167 S. 59(1) substituted by Transport Act 1985 (c. 67, SIF 126), **s. 3(4)**

F168 Words repealed by Transport Act 1982 (c. 49, SIF 126), **Sch. 6**

F169 S. 59(3) repealed by Transport Act 1985 (c. 67, SIF 126), s. 139(3), **Sch. 8**

F170 S. 59(4) repealed by Transport (London) Act 1969 (c. 35, SIF 126), **Sch. 6**

Operators' licences

60 Users of certain goods vehicles to hold operators' licences. E+W+S

(1) Subject to subsection (2) of this section and to the other provisions of this Part of this Act, no person shall, after the appointed day for the purposes of this section, use a goods vehicle on a road for the carriage of goods—

(a) for hire or reward; or

(b) for or in connection with any trade or business carried on by him,

except under a licence granted under this Part of this Act (hereafter in this Part of this Act referred to as an "operator's licence").

(2) Subsection (1) of this section shall not apply—

(a) to the use of a small goods vehicle as defined in subsection (4) of this section; or

(b) to the use of a vehicle of any class specified in regulations.

(3) It is hereby declared that, for the purposes of this Part of this Act, the performance by a local or public authority of their functions constitutes the carrying on of a business.

(4) For the purposes of subsection (2)(a) of this section a small goods vehicle is a goods vehicle which—

(a) does not form part of a vehicle combination and has a relevant plated weight not exceeding **[**[F171]3.5 tonnes**]** or (not having a relevant plated weight) has an unladen weight not exceeding **[**[F171]1525 kilograms**]**; or

(b) forms part of a vehicle combination (not being an articulated combination) which is such that—

(i) if all the vehicles comprised in the combination (or all of them except any small trailer) have relevant plated weights, the aggregate of the relevant plated weights of the vehicles comprised in the combination (exclusive of any such trailer) does not exceed **[**[F171]3.5 tonnes**]**;

(ii) in any other case, the aggregate of the unladen weights of those vehicles (exclusive of any such trailer) does not exceed **[**[F171]1525 kilograms**]**; or

(c) forms part of an articulated combination which is such that—

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(i) if the trailer comprised in the combination has a relevant plated weight, the aggregate of the unladen weight of the motor vehicle comprised in the combination and the relevant plated weight of that trailer does not exceed **[**F171 3.5 tonnes**]**;

(ii) in any other case, the aggregate of the unladen weights of the motor vehicle and the trailer comprised in the combination does not exceed **[**F171 1525 kilograms**]**.

In any provision of this subsection "relevant plated weight" means a plated weight of the description specified in relation to that provision by regulations; and in paragraph (b) of this subsection "small trailer" means a trailer having an unladen weight not exceeding **[**F172 1020 kilograms**]**.

(5) A person who uses a vehicle in contravention of this section shall be liable on summary conviction to a fine not exceeding **[**F173 level 4 on the standard scale**]**.

Textual Amendments

F171 Words substituted by S.I. 1981/1373, **Sch. Pt. III**A (as amended by S.I. 1984/177, **reg. 2**)

F172 Words substituted by S.I. 1981/1373, **Sch. Pt. III**A

F173 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)

Modifications etc. (not altering text)

C67 S. 60(1) excluded by S.I. 1980/637, regs. 4-33, **Schs. 2-4**

C68 S. 60(1) excluded by S.I. 1984/176, **reg. 34A**, (as inserted by S.I. 1990/1849, **reg. 6**)

61 Authorised vehicles. E+W+S

(1) Subject to subsection (2) of this section, the vehicles authorised to be used under an operator's licence shall be—

(a) such motor vehicles, being vehicles belonging to the holder of the licence or in his possession under an agreement for hire-purchase, hire or loan, as are specified in the licence;

(b) trailers from time to time belonging to the holder of the licence or in his possession under an agreement for hire-purchase, hire or loan, not exceeding at any time such maximum number as is specified in the licence;

(c) unless the licence does not permit the addition of authorised vehicles under this paragraph and subject to subsection (3) of this section, motor vehicles not exceeding such maximum number as is specified in the licence, being vehicles belonging to the holder of the licence or in his possession under an agreement for hire-purchase, hire or loan, but acquired by him, or coming into his possession under such an agreement, only after the grant of the licence.

For the purposes of paragraphs (b) and (c) of this subsection different types of trailers or different types of motor vehicles, as the case may be, may be distinguished in a licence and a maximum number may be specified in the licence for trailers or vehicles of each type.

(2) An operator's licence shall not authorise the use of any vehicle unless the place which is for the time being its operating centre—

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(a) is in the area of the licensing authority by whom the licence was granted; or

(b) is outside that area and has not been the operating centre of that vehicle for a period of more than three months.

For the purposes of paragraph (b) of this subsection, two or more successive periods which are not separated from each other by an interval of at least three months shall be treated as a single period having a duration equal to the total duration of those periods.

(3) A motor vehicle which, after the grant of an operator's licence, is acquired by the holder of the licence, or comes into his possession under an agreement for hire-purchase, hire or loan, and thereupon becomes an authorised vehicle by virtue of subsection (1)(c) of this section, shall cease to be an authorised vehicle on the expiration of one month from the date on which it was acquired by him or came into his possession unless before the expiration of that period he delivers to the licensing authority a notice in such form as the authority may require to the effect that the vehicle has been acquired by him, or has come into his possession, as the case may be.

(4) Where the licensing authority by whom a licence was granted receives a notice under subsection (3) of this section to the effect that the holder of the licence has acquired, or come into possession of, a vehicle as mentioned in that subsection, he shall, if the vehicle has become an authorised vehicle by virtue of subsection (1)(c) of this section, vary the licence by directing that the vehicle be specified therein.

(5) A motor vehicle specified in an operator's licence shall not, while it remains so specified, be capable of being effectively specified in any other operator's licence.

(6) Where it comes to the knowledge of the licensing authority by whom an operator's licence was granted that a vehicle specified therein—

(a) has ceased to be used under the licence (otherwise than because of a fluctuation in business or because it is undergoing repair or maintenance); or

(b) is specified in another operator's licence,

he may vary the licence by directing that the vehicle be removed therefrom.

[F174 61A Maximum numbers of vehicles. E+W+S

(1) An operator's licence—

(a) shall specify a maximum number for motor vehicles; and

(b) may specify a maximum number for motor vehicles the relevant weight of which exceeds a weight specified in the licence.

(2) An operator's licence that does not contain a provision such as is mentioned in section 61(1A)(c) of this Act—

(a) shall specify a maximum number for trailers; and

(b) may specify a maximum number for trailers the relevant weight of which exceeds a weight specified in the licence.

(3) The number of vehicles being used under an operator's licence by virtue of section 61(1)(c) of this Act at any one time may not exceed the maximum number specified in the licence under subsection (1)(a) of this section, less however many motor vehicles are specified in the licence.

(4) Where under subsection (1)(b) of this section an operator's licence specifies a maximum number for motor vehicles the relevant weight of which exceeds a specified weight—

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(a) the number of such vehicles being used under the licence by virtue of section 61(1)(c) of this Act at any one time may not exceed that maximum number, less however many motor vehicles the relevant weight of which exceeds the specified weight are specified in the licence; and

(b) the number of such vehicles that are specified in the licence and being used under it at any one time may not exceed that maximum number.

(5) The number of trailers being used under an operator's licence at any one time may not exceed the maximum number specified in the licence under subsection (2)(a) of this section.

(6) Where under subsection (2)(b) of this section an operator's licence specifies a maximum number for trailers the relevant weight of which exceeds a specified weight, the number of such trailers being used under the licence at any one time may not exceed that maximum number.

(7) The definition of "relevant weight" in section 61(1B) of this Act applies for the purposes of this section as it applies for the purposes of section 61(1A).

(8) If subsection (3), (4)(a) or (b), (5) or (6) of this section is contravened, the licence-holder shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.**]**

Textual Amendments

F174 S. 61A inserted (*prosp.*) by 1994 c. 40, **s. 42(3)**, 82(4)

62 Applications for operators' licences. E+W+S

(1) A person may apply for an operator's licence to the licensing authority for each area in which, if the licence is granted, the applicant will have an operating centre or operating centres; and a person may hold separate operators' licences in respect of different areas but shall not at any time hold more than one such licence in respect of the same area.

(2) A person applying for an operator's licence shall give to the licensing authority a statement giving such particulars as the authority may require of the motor vehicles proposed to be used under the licence which—

(a) belong to the applicant, or

(b) are in his possession under an agreement for hire-purchase, hire or loan, or

(c) he intends, if the application is granted, to acquire, or to obtain possession of under such an agreement,

and also stating the number and type of any trailers proposed to be so used.

(3) **F175**

(4) A person applying for an operator's licence shall give to the licensing authority any further information which he may reasonably require for the discharge of his duties in relation to the application, and in particular shall, if he is required by the licensing authority so to do, give to him—

(a) such particulars as he may require with respect to the purposes for which the vehicles referred to in the statement under subsection (2) of this section are proposed to be used;

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(b) particulars of the arrangements for securing that Part VI of this Act (or, so long as those sections remain in force, sections 73 and 186 of the Act of 1960) will be complied with in the case of those vehicles, and for securing that those vehicles are not overloaded;

(c) particulars of the facilities and arrangements for securing that those vehicles will be maintained in a fit and serviceable condition;

(d) particulars of any activities carried on, at any time before the making of the application, by—

(i) the applicant,

(ii) any company of which the applicant is or has been a director;

(iii) where the applicant is a company, any person who is a director of the company;

(iv) where the applicant proposes to operate the said vehicles in partnership with other persons, any of those other persons;

(v) any company of which any such person as is mentioned in sub-paragraph (iii) or (iv) of this paragraph is or has been a director;

(vi) any company of which the applicant is a subsidiary,

being activities in carrying on any trade or business in the course of which vehicles of any description are operated, or as a person employed for the purposes of any such trade or business, or as a director of a company carrying on any such trade or business;

(e) particulars of any convictions during the five years preceding the making of the application—

(i) of the applicant; and

(ii) of any other person as to whose activities particulars may be required to be given under paragraph (d) of this subsection,

being convictions such as are mentioned in subsection (4) of section 69 of this Act (taking references in that subsection to the holder of the licence as references to the applicant or, as the case may be, to that other person);

(f) particulars of the financial resources which are or are likely to be available to the applicant;

(g) where the applicant is a company, the names of the directors and officers of the company, and of any company of which the first-mentioned company is a subsidiary, and where the authorised vehicles are proposed to be operated by the applicant in partnership with other persons, the names of those other pcrsons.

[[F176](4A) A person who has applied for an operator's licence shall forthwith notify the licensing authority if, in the interval between the making of the application and the date on which it is disposed of, a conviction occurs which, if the period of five years specified in paragraph (e) of subsection (4) of this section had not expired, would be a conviction falling within that paragraph; and for the purposes of this subsection an application shall be taken to be disposed of,—

(a) if the licensing authority is required, by virtue of regulations under section 91 of this Act, to cause a statement containing his decision on the application to be issued, on the date on which that statement is issued, and

(b) in any other case, on the date on which the applicant receives notice from the licensing authority of his decision on the application.

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(4B) A person who knowingly fails to comply with subsection (4A) of this section shall be liable on summary conviction to a fine not exceeding **[**F177level 4 on the standard scale**]**, and **[**F178section 6 of the Road Traffic Offenders Act 1988**]** (time for bringing summary proceedings for certain offences) shall apply in relation to an offence under this subsection as it applies in relation to the offences **[**F179under the Road Traffic Act 1988 or the Road Traffic Offenders Act 1988**]** to which it is applied by virtue of **[**F180Schedule 1 to the Road Traffic Offenders Act 1988**].]**

(5) Any statement or information to be given to a licensing authority under this section shall be given in such form as the authority may require.

Textual Amendments

F175 Ss. 62(3), 63(2), 65 repealed by Transport Act 1982 (c. 49, SIF 126), **Sch. 6**

F176 S. 62(4A)(4B) inserted by Road Traffic Act 1974 (c. 50, SIF 107:1), **Sch. 4 para. 1**

F177 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)

F178 Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 6(1)(a)**

F179 Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c.54, SIF 107:1), s. 4, **Sch. 3 para. 6(1)(b)**

F180 Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 6(1)(c)**

Modifications etc. (not altering text)

C69 S. 62(4)(*b*) extended by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3, SIF 107:1), **s. 2(2)**

C70 S. 61(4)(*d*)(*e*) extended by S.I. 1984/176, **reg. 10(8)**

C71 S. 62(4B) extended by S.I. 1984/176, **reg. 5(5)**

63 Objections to grant of operators' licences. E+W+S

(1) F181

(2) F182

(3) Any of the following persons, that is to say—

(a) a prescribed trade union or association, being a trade union or association whose members consist of or include—

(i) persons holding operators' licences or carriers' licences; or

(ii) employees of any such persons;

(b) a chief officer of police;

(c) a local authority,

[F183(d) a planning authority**]**

may object to the grant of any application **[**F184for an operator's licence**]** on the ground that any of the requirements mentioned in section 64(2) of this Act are not satisfied in the case of the application.

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(4) Any objection under this section shall be made within the prescribed time and in the prescribed manner (which shall be stated in the notice published under subsection (1) of this section) and shall contain particulars of the ground on which it is made.

(5) The onus of proof of the existence of the ground on which an objection is made shall lie on the objector.

(6) In this section—

"local authority" means—

(a) as respects England and Wales, the council of a county,. . . F185, [F186district] or London borough,. . . F187 and the Common Council of the City of London;

(b) as respects Scotland, a [F188regional, islands or district] council;

[F189"planning authority" means any body other than a local authority which by virtue of any statutory provision for the time being in force is—

(a) in England and Wales, the local planning authority for any area for the purpose of determining applications for planning permission under [F190Part III of the Town and Country Planning Act 1990] (general planning control); and

(b) in Scotland, the planning authority for any area for the purpose of determining applications for planning permission under Part III of the Town and Country Planning (Scotland) Act 1972 (general planning control);

"statutory provision" means a provision contained in an Act or in subordinate legislation within the meaning of the Interpretation Act 1978; and]

"trade union" has the same meaning as in the M17Trade Union Act 1913.

Textual Amendments

F181 Words repealed by Transport Act 1982 (c. 49, SIF 126), **Sch. 6**
F182 Ss. 62(3), 63(2), 65 repealed by Transport Act 1982 (c. 49, SIF 126), **Sch. 6**
F183 S. 63(3)(*d*) inserted by Transport Act 1982 (c. 49, SIF 126), **Sch. 4 Pt. II para. 8**(*a*)
F184 Words substituted by Transport Act 1982 (c. 49, SIF 126), **Sch. 4 Pt. II para. 1**(*c*)
F185 Words repealed by Local Government Act 1972 (c. 70, SIF 81:1), **Sch. 30**
F186 Word substituted by virtue of Local Government Act 1972 (c. 70, SIF 81:1), **s. 179(3)**
F187 Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
F188 Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 18 para. 18**
F189 Definitions inserted by Transport Act 1982 (c. 49, SIF 126), **Sch. 4 Pt. II para. 8**(*b*)
F190 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 22(1)**

Modifications etc. (not altering text)

C72 S. 63 modified by S.I. 1984/176, **reg. 32(5)**

Marginal Citations

M17 1913 c. 30 (2 & 3 Geo. 5).

64 Decision on applications for operators' licences. E+W+S

(1) [F191Subject to section 69E of this Act]On an application for an operator's licence, the licensing authority shall in every case consider whether the requirements mentioned in paragraphs (a) to (d) of subsection (2) of this section, and, if the licensing authority

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in any case thinks fit, paragraph (e) of that subsection, are satisfied, and in doing so shall have regard to any objection duly made under section 63 of this Act.

(2) The said requirements are as follows—

(a) that the applicant is a fit person to hold an operator's licence, having regard to the matters of which particulars may be required to be given under section 62(4)(d) and (e) of this Act **[**F192and to any conviction required to be notified in accordance with section 62(4A) thereof**]**;

(b) F193

(c) that there will be satisfactory arrangements for securing that Part VI of this Act (or, so long as those sections remain in force, sections 73 and 186 of the Act of 1960) will be complied with in the case of the authorised vehicles, and for securing that those vehicles are not overloaded;

(d) that there will be satisfactory facilities and arrangements for maintaining the authorised vehicles in a fit and serviceable condition **[**F194and that the place which is to be the operating centre for those vehicles is suitable for that purpose**]**;

(e) that the provision of such facilities and arrangements as are mentioned in paragraph (d) of this subsection **[**F195and of a suitable operating centre**]** will not be prejudiced by reason of the applicant's having insufficient financial resources for that purpose.

(3) If the licensing authority determines that any requirement which he has taken into consideration in accordance with subsection (1) of this section is not satisfied, he shall refuse the application but, in any other case, he shall, subject to subsection (4) of this section **[**F196and section 69B of this Act**]**, grant the application.

(4) In any case in which the licensing authority grants an application for an operator's licence, the licensing authority may issue that licence in the terms applied for or, if the authority thinks fit, subject to either or both of the following modifications or limitations, that is to say—

(a) so that the licence is in respect of motor vehicles other than those of which particulars were contained in the application, or in respect of motor vehicles or trailers greater or less in number than, or differing in type from, those for the use of which authorisation was applied for;

(b) so that the licence does not permit the addition of authorised vehicles under section 61(1)(c) of this Act.

(5) In exercising his functions under this section in relation to the requirement mentioned in subsection (2)(e) thereof, a licensing authority may be assisted by an assessor drawn from a panel of persons appointed by the Minister for that purpose; and there shall be paid by the licensing authority to any such assessor in respect of his services remuneration on a scale prescribed by the Minister with the approval of the Treasury.

Textual Amendments

F191 Words inserted by Transport Act 1982 (c. 49, SIF 126), **Sch. 4 Pt. II para. 2**(*a*)

F192 Words added by Road Traffic Act 1974 (c. 50, SIF 107:1), **Sch. 4 para. 2**(*a*)

F193 S. 64(2)(*b*) repealed by Transport Act 1982 (c. 49, SIF 126), **Sch. 6**

F194 Words added by Road Traffic Act 1974 (c. 50, SIF 107:1), **Sch. 4 para. 2**(*b*)

F195 Words inserted by Road Traffic Act 1974 (c. 50, SIF 107:1), **Sch. 4 para. 2**(*c*)

F196 Words inserted by Transport Act 1982 (c. 49, SIF 126), **Sch. 4 Pt. II para. 2**(*b*)

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Modifications etc. (not altering text)

C73 S. 64(2) modified by S.I. 1984/176, **reg. 36(1)**

C74 S. 64(2)(*c*) extended by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3, SIF 107:1), **s. 2(2)**

C75 S. 64(2)(*c*)–(*e*) extended by S.I. 1984/176, **reg. 10(8)**

C76 S. 64(3) extended by S.I. 1984/176, **reg. 5(1)**

F197 64A Issue of operators' licences. E+W+S

(1) Subject to subsection (2) of this section and to sections 64B, 66, 69B, 69C and 89(2) of this Act, on granting an application for an operator's licence, the licensing authority shall issue that licence in the terms applied for.

(2) If the authority has determined that any of the requirements of section 64(3) or (4) of this Act that he has taken into consideration in accordance with section 64(1) of this Act would not be satisfied unless he exercised any of his powers under subsection (3) of this section, he shall exercise those powers accordingly.

(3) The authority may issue the licence in terms that differ from the terms applied for in any of the following respects—

(a) more or fewer motor vehicles are specified in the licence;

(b) different motor vehicles are specified in it;

(c) it includes a provision such as is mentioned in section 61(1A) of this Act;

(d) it includes a provision such as is mentioned in section 61A(1)(b) or (2)(b) of this Act;

(e) higher or lower maximum numbers are specified in it under section 61A of this Act;

(f) fewer places are specified in it as operating centres of the licence-holder.

(4) Any undertakings taken into account by the authority under section 64(6) of this Act that he considers to be material to the granting of the application shall be recorded in the licence issued.

Textual Amendments

F197 Ss. 64, 64A substituted (*prosp.*) for s. 64 by 1994 c. 40, **ss. 44(1)**, 82(4)

[F198 64B Conditions for securing road safety. E+W+S

(1) A licensing authority, on granting an operator's licence or on varying such a licence under section 68 of this Act, may attach to it such conditions as he thinks fit for preventing vehicles that are authorised to be used under the licence from causing danger to the public—

(a) at any point where vehicles first join a public road on their way from an operating centre of the licence-holder (or last leave a public road on their way to such an operating centre); and

(b) on any road (other than a public road) along which vehicles are driven between such a point and the operating centre.

(2) On varying an operator's licence under section 68 of this Act, the licensing authority may vary or remove any condition attached to the licence under this section.

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(3) The licensing authority shall not—

(a) attach to an operator's licence any condition such as is mentioned in this section; or

(b) vary in such manner as imposes new or further restrictions or requirements any condition attached to an operator's licence under this section,

without first giving the applicant for the licence or (as the case may be) the licence-holder an opportunity of making representations to the authority with respect to the effect on his business of the proposed condition or variation.

(4) The licensing authority shall give special consideration to any representations made under subsection (3) of this section in determining whether to attach the proposed condition or make the proposed variation.

(5) In this section as it applies in relation to England and Wales, "public road" means a highway maintainable at the public expense for the purposes of [M18] the Highways Act 1980.

(6) Any person who contravenes any condition attached under this section to a licence of which he is the holder shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.**]**

Textual Amendments

F198 S. 64B inserted (*prosp.*) by 1994 c. 40, **ss. 45**, 82(4)

Marginal Citations

M18 1980 c. 66.

65 Conditions as to transport managers. E+W+S

. . . . . [F199]

Textual Amendments

F199 Ss. 62(3), 63(2), 65 repealed by Transport Act 1982 (c. 49, SIF 126), **Sch. 6**

66 Conditions as to matters required to be notified to licensing authority. E+W+S

(1) A licensing authority, in granting an operator's licence, may attach thereto such conditions as he thinks fit for requiring the holder to inform him—

(a) of any change, of a kind specified in the conditions, in the organisation, management or ownership of the trade or business in the course of which the authorised vehicles are used;

(b) where the holder of the licence is a company, of any change, or of any change of a kind so specified, in the persons holding shares in the company;

(c) of any other event of a kind so specified affecting the holder of the licence which is relevant to the exercise of any powers of the authority in relation to the licence.

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(2) Any person who contravenes any condition attached under this section to a licence of which he is the holder shall be liable on summary conviction to a fine not exceeding **[**F200level 4 on the standard scale**]**.

Textual Amendments

F200 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)

67 Duration of operators' licences and grant of interim licences. E+W+S

(1) There shall be specified in every operator's licence the date on which the licence is to come into force.

(2) Regulations may specify the dates in the year on which operators' licences shall expire, and, subject to subsections (4) and (5) of this section, an operator's licence shall, unless previously revoked, **[**F201or prematurely terminated under section 69 of this Act**]** continue in force up till and including that one of the specified dates which occurs next before the expiration of the period of five years beginning with the date on which the licence came into force, or of such other period beginning with that date as the licensing authority may in accordance with the next following subsection direct.

(3) The licensing authority may, on granting an operator's licence, direct that in the case of that licence the period relevant for the purposes of subsection (2) of this section—

(a) shall be a period shorter than five years **[**F202if it appears to the licensing authority to be appropriate in the case of any applicant**]**;

(b) shall be a period longer or shorter than five years if the licensing authority is of opinion that it is desirable so to direct in order to arrange a suitable and convenient programme of work for the licensing authority.

(4) If, at the date on which an operator's licence is due to expire, proceedings are pending before the licensing authority on an application by the holder of that licence for the grant to him of a new licence in substitution therefor, the existing licence shall continue in force until—

(a) the application; and

(b) any appeal under section 70 of this Act arising out of the application,

are disposed of, without prejudice, however, to the exercise in the meantime of the powers conferred by section 69 of this Act.

(5) If an applicant for an operator's licence so requests, a licensing authority may, if the applicant does not hold an operator's licence granted by that authority, grant to him, pending the determination of the application, an operator's licence expressed to continue in force until the date on which any licence granted on the application or on an appeal arising out of it is expressed to come into force or, if no licence is granted as aforesaid, until the application is refused; and a request for the grant of a licence under this subsection shall not for the purposes of section 63 or **[**F203subsections (1) to (3) of section**]** 64 of this Act be treated as an application for an operator's licence **[**F203but shall be so treated for the purposes of section 64(4) of this Act**]**,. . . F204

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Textual Amendments

F201 Words inserted by Road Traffic Act 1974 (c. 50, SIF 107:1), **Sch. 4 para. 3(1)**

F202 Words substituted by Road Traffic Act 1974 (c. 50, SIF 107:1), **Sch. 4 para. 3(2)**

F203 Words inserted by Road Traffic Act 1974 (c. 50, SIF 107:1), **Sch. 4 para. 3(3)**

F204 Words repealed by Transport Act 1982 (c. 49, SIF 126), **Sch. 6**

F205 67A Interim licences. E+W+S

(1) Where on any application for an operator's licence (a "full" licence) the applicant so requests, the licensing authority may grant to him an interim licence.

(2) An interim licence is an operator's licence that (subject to its revocation or other termination under any provision of this Act or another statutory provision) will continue in force until it terminates under subsection (3), (4) or (5) of this section.

(3) If the licensing authority grants the application and issues to the applicant a full licence—

(a) that is in the terms applied for; or

(b) that is in those terms, subject only to the attachment under section 64B, 66 or 69C of this Act of any conditions that are also attached to the interim licence,

the interim licence shall terminate on the date on which the full licence comes into force.

(4) If, on an appeal arising out of the application, the Transport Tribunal orders the licensing authority to issue a full licence to the applicant, the interim licence shall terminate—

(a) on the date on which the full licence issued in pursuance of the order comes into force; or

(b) at the time at which the application is withdrawn or treated as withdrawn under section 89(3) of this Act.

(5) If neither subsection (3) nor subsection (4) of this section applies, the interim licence shall terminate on the date on which the application is finally disposed of or such earlier date as the applicant may specify in a written request to the licensing authority.

(6) In a case within subsection (5) of this section where the application is granted, the full licence issued to the applicant shall (notwithstanding any statement in it to the contrary) be of no effect before the interim licence terminates.

(7) A request for the grant of an interim licence shall not for the purposes of section 63, 64, 64A, 69B, 69E, 69J or 70 of, or Schedule 8A to, this Act be treated as an application for an operator's licence, but shall be treated as such an application for any other purposes of this Part of this Act.

(8) The licensing authority may issue an interim licence in the same terms as those applied for in relation to the full licence or in terms that differ from those terms in any of the respects mentioned in section 64A(3) of this Act.

Textual Amendments

F205 Ss. 67, 67A substituted (*prosp.*) for s. 67 by 1994 c. 40, **ss. 46**, 82(4)

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68 Variation of operators' licences. E+W+S

(1) **[**F206Subject to section 69E of this Act**]**On the application of the holder of an operator's licence, the licensing authority by whom the licence was granted may at any time while it is in force vary the licence by directing—

(a) that additional vehicles be specified therein, that the maximum number of trailers or of motor vehicles specified therein under paragraph (b) or (c) of section 61(1) of this Act be increased, or, if the licence does not permit the addition of authorised vehicles under the said paragraph (c), that it shall so permit and that a maximum be specified under that paragraph accordingly; or

(b) that vehicles specified therein be removed therefrom or that any such maximum as is mentioned in paragraph (a) of this subsection be reduced; or

[F207(c) that an alteration or addition be made in or to any of the matters specified for the purposes of the M19Goods Vehicles (Operators Licences, Qualifications and Fees) Regulations 1984 in a standard licence as defined in Regulations 3(2) of those Regulations**]**

(d) that an alteration be made in any condition attached to the licence under section 66 of this Act or that any such condition be removed;

[F208or

(e) that a restricted licence as defined in Regulation 3(2) of the said Regulations of 1984 be converted into a standard licence as defined in that Regulation, or vice versa.**]**

(2) A person applying for a direction under this section shall give to the licensing authority such information as he may reasonably require for the discharge of his duties in relation to the application.

(3) Any information or particulars to be given to a licensing authority under subsection (2) of this section shall be given in such form as the authority may require.

(4) Except in the following cases, that is to say—

(a) F209

(b) where the application is for a direction under subsection (1)(b) of this section; or

[F210(bb) where an application is for a direction as referred to in subsection (1)(*c*) or (*e*) of this section; or**]**

(c) where the licensing authority is satisfied that the application is of so trivial a nature that it is not necessary that an opportunity should be given for objecting to it,

the licensing authority shall publish notice of any application under this section in the manner provided for the publication of notices under subsection (1) of **[**F211section 63 of this Act**]**; and where notice of the application is published in pursuance of this subsection the other provisions of the said section 63 and the provisions of section 64 of this Act shall, so far as applicable and subject to any necessary modifications, apply to that application as they apply to an application for the grant of an operator's licence of which notice is published under subsection (1) of the said section 63.

(5) If an applicant under this section so requests, the licensing authority may, pending the determination of the application, give an interim direction under this section, that is to say, a direction expressed to continue in force only until the application, and any appeal arising out of it, have been disposed of; and a request for such a direction shall

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not for the purposes of subsection (4) of this section be treated as an application under this section.

Textual Amendments

F206 Words inserted by Transport Act 1982 (c. 49, SIF 126), **Sch. 4 Pt. II para. 3**(*a*)

F207 S. 68(1)(c) inserted by S.I. 1984/176. reg. 36(2)(*a*) as amended by S.I. 1986/666 reg. 8(*a*)

F208 Word "or" and s. 68(1)(*e*) added by S.I. 1984/176, **reg. 36(2)**(*b*)

F209 S. 68(4)(*a*) repealed by Transport Act 1982 (c. 49, SIF 126), **Sch. 6**

F210 S. 68(4)(*bb*) inserted by S.I. 1984/176, **reg. 36(2A)** (as inserted by S.I. 1986/666, **reg. 8**(*b*))

F211 Words substituted by Transport Act 1982 (c. 49, SIF 126), **Sch. 6**

Marginal Citations

M19 S.I. 1984/76.

F212 68A Interim variations. E+W+S

(1) Where an applicant for the variation of an operator's licence under section 68 of this Act so requests, the licensing authority may, before he has determined the application, vary the licence by giving an interim direction in respect of it.

(2) An interim direction is a direction under section 68(1) of this Act that is expressed to continue in force until it ceases to have effect under subsection (3) or (4) of this section.

(3) If on determining the application the licensing authority varies the licence by giving a direction in the terms applied for (and does not also under section 64B(1) or (2) or 69C(1) or (3) of this Act attach or vary any conditions), the interim direction shall cease to have effect on the date on which the direction given on the application comes into force.

(4) If subsection (3) of this section does not apply, the interim direction shall cease to have effect on the date on which the application is finally disposed of or such earlier date as the applicant may specify in a written request to the licensing authority.

(5) In a case within subsection (4) of this section where on determining the application the licensing authority gives a direction varying the licence, that direction shall be of no effect before the interim direction ceases to have effect.

(6) A request for an interim direction to be given shall not for the purposes of section 68(4) or 70 of, or Schedule 8A to, this Act be treated as an application for the variation of an operator's licence, but shall be treated as such an application for any other purposes of this Part of this Act.

Textual Amendments

F212 Ss. 68, 68A substituted (*prosp.*) by 1994 c. 40, **ss. 47(1)**, 82(4)

69 Revocation, suspension and curtailment of operators' licences. E+W+S

(1) Subject to the provisions of this section, the licensing authority by whom an operator's licence was granted may direct that it be revoked, suspended, **[**F213terminated on a date

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earlier than that on which it would otherwise expire under section 67 of this Act**]** or curtailed on any of the following grounds—

(a) that the holder of the licence has contravened. . . [F214] or any condition attached to his licence under section 66 of this Act;

(b) that during the five years ending with the date on which the direction is given there has been (whether before or after the day on which this section comes into force)—

(i) any such conviction as is mentioned in **[**[F215]paragraphs (*a*) to (*fff*)**][**[F215]paragraphs (*a*) to (*ffff*)**]** of subsection (4) of this section or any such prohibition as is mentioned in paragraph (h) of that subsection; or

(ii) any such conviction as is mentioned in paragraph (g) of that subsection on occasions appearing to the licensing authority to be sufficiently numerous to justify the giving of a direction under this subsection;

(c) that the holder of the licence made or procured to be made for the purposes of his application for the licence, or for the purposes of an application for the variation of the licence, a statement of fact which (whether to his knowledge or not) was false, or a statement of intention or expectation which has not been fulfilled;

(d) that the holder of the licence has been adjudicated bankrupt or, where the holder is a company, has gone into liquidation (not being a voluntary liquidation for the purpose of reconstruction);

(e) that there has been since the licence was granted or varied a material change in any of the circumstances of the holder of the licence which were relevant to the grant or variation of his licence;

(f) that the licence is liable to revocation, suspension, **[**[F213]premature termination**]** or curtailment by virtue of a direction under subsection (6) of this section;

and during any time of suspension the licence shall be of no effect.

(2) In any case in which a licensing authority has power to give a direction under the foregoing subsection in respect of any licence, the authority shall also have power to direct that there be attached to the licence any, or any additional, condition such as is mentioned in section 66 of this Act.

(3) Where the existence of any of the grounds mentioned in subsection (1) of this section is brought to the notice of the licensing authority in the case of the holder of any licence granted by him, the authority shall consider whether or not to give a direction under this section in respect of that licence.

[[F216](3A) Where the ground mentioned in subsection (1) of this section consists of a conviction mentioned in paragraph (ff) of subsection (4) of this section and there has been, within the 5 years preceding that conviction a previous conviction of the holder of the licence of the offence referred to in that paragraph, the licensing authority shall give a direction under this section to revoke the licence.**]**

(4) The convictions and prohibitions mentioned in subsection (1)(b) of this section are as follows—

(a) a conviction, in relation to a goods vehicle, of the holder of the licence, or a servant or agent of his **[**[F217]of an offence under section 46 of the Road Traffic Act 1972 **[**[F218]or section 53 of the Road Traffic Act 1988**]** (plating certificates and goods vehicle test certificates) or**]**, of contravening

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any provision (however expressed) contained in or having effect under any enactment (including any enactment passed after this Act) relating to—

(i) the maintenance of vehicles in a fit and serviceable condition;

(ii) limits of speed and weight laden and unladen, and the loading of goods vehicles;

(iii) the licensing of drivers;

(b) a conviction of the holder of the licence under—

(i) this Part of this Act. . . F219;

(ii) section 233 or 235 of the Act of 1960 so far as applicable (by virtue of Schedule 10 to this Act) to licences, authorisations or means of identification under this Part of this Act. . . F219;

(iii) any regulation made under this Act which is prescribed for the purposes of this subsection;

(c) a conviction, in relation to a goods vehicle, of the holder of the licence or a servant or agent of his under, or of conspiracy to contravene, Part VI of this Act or section 73 or 186 of the Act of 1960;

(d) F220

(e) a conviction, in relation to a goods vehicle, of the holder of the licence under, or of conspiracy to contravene, section 200 of the M20Customs and Excise Act 1952, **[**F221section 11 of the M21Hydrocarbon Oil (Customs and Excise) Act 1971 or section 13 of the M22Hydrocarbon Oil Duties Act 1979**]** (unlawful use of rebated fuel oil);

[F222(ee) a conviction of the holder of the licence or a servant or agent of his of a contravention, in relation to an international road haulage permit, within the meaning of **[**F223the Road Traffic Act 1988, of section 169 or 170 of the Road Traffic Act 1972 or of section 173 or 174 of the Road Traffic Act 1988**]**;

(eee) a conviction of the holder of the licence or a servant or agent of his under section 2 of the M23International Road Haulage Permits Act 1975**]**.

(f) a conviction of the holder of the licence under section 18 of the M24Royal Safety Act 1967 **[**F224or section 59 of the Road Traffic Act 1972**][**F225or section 74 of the Road Traffic Act 1988**]** (operator's duty to inspect, and keep records of inspection of, goods vehicles);

[F226(ff) a conviction of the holder of a licence of an offence under Regulation 33(2) of the Goods Vehicles (Operators' Licences Qualifications and Fees) Regulations 1984;

(fff) a conviction of the holder of the licence of an offence under Regulation 33(3) of the said Regulations of 1984;**]**

[F227(ffff) a conviction of the holder of the licence or a servant or agent of his under—

(i) section 3 of the Control of Pollution Act 1974;

(ii) section 2 of the Refuse Disposal (Amenity) Act 1978;

(iii) section 1 of the Control of Pollution (Amendment) Act 1989; and

(iv) section 33 of the Environmental Protection Act 1990.**]**

(g) a conviction, in relation to a goods vehicle, of the holder of the licence, or a servant or agent of his, of contravening

[F228(i)**]** any provision (however expressed) which prohibits or restricts the waiting of vehicles, being a provision contained in an order made under section 1, 6, 9 or **[**F22912 of the M25Road Traffic Regulation Act 1984 (including any such order made by virtue of paragraph 3 of Schedule 9 to that Act) or under any enactment repealed by that

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Act and re-enacted by any of those sections(including any such order made by virtue of section 84A(2) of the Road Traffic Regulation Act 1976);**]**

[F230or

(ii) any provision included in a traffic regulation order, within the meaning of section 1 of that Act, by virtue of **[**F231section 2(4) of the Road Traffic Regulation Act 1984 (lorry routes) or section 1(3AA) of the Road Traffic Regulation Act 1967**]]**.

(h) a prohibition of the use of a vehicle under section 184 of the Act of 1960 or of the driving of a vehicle under section 16 of the M26Road Safety Act 1967 **[**F224or section 57 of the M27Road Traffic Act 1972**][**F232or section 69 or 70 of the Road Traffic Act 1988**]**, being a vehicle of which the holder of the licence was the owner when the prohibition was imposed.

(5) Where the licensing authority directs that an operator's licence be revoked, the authority may order the person who was the holder thereof to be disqualified, indefinitely or for such period as the authority thinks fit, from holding or obtaining an operator's licence, and so long as the disqualification is in force—

(a) notwithstanding anything in section 64 of this Act, no operator's licence shall be granted to him and any operator's licence obtained by him shall be of no effect; and

(b) if he applies for or obtains an operator's licence he shall be liable on summary conviction to a fine not exceeding **[**F233level 4 on the standard scale**]**.

An order under this subsection may be limited so as to apply only to the holding or obtaining of an operator's licence in respect of the area of one or more specified licensing authorities and, if the order is so limited, paragraphs (a) and (b) of this subsection shall apply only to any operator's licence to which the order applies; but, notwithstanding section 61(2)(b) of this Act, no other operator's licence held by the person in question shall authorise the use by him of any vehicle at a time when its operating centre is in an area in respect of which he is disqualified by virtue of the order.

(6) Where the licensing authority makes an order under subsection (5) of this section in respect of any person, the authority may direct that if that person, at any time or during such period as the authority may specify—

(a) is a director of, or holds a controlling interest in—

(i) a company which holds a licence of the kind to which the order in question applies; or

(ii) a company of which such a company as aforesaid is a subsidiary; or

(b) operates any goods vehicles in partnership with a person who holds such a licence,

that licence of that company, or, as the case may be, of that person, shall be liable to revocation, suspension **[**F234, premature termination**]** or curtailment under this section.

(7) The powers conferred by subsections (5) and (6) of this section in relation to the person who was the holder of a licence shall be exercisable also, where that person was a company, in relation to any director of that company, and, where that person operated the authorised vehicles in partnership with other persons, in relation to any of those other persons.

[F235(7A) Where a licensing authority directs that an operator's licence be suspended or curtailed, the authority may order that—

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(a) in the case of a suspension, any motor vehicle specified in the licence may not be used under any other operator's licence, notwithstanding any authorisation under section 61(1)(c) of this Act, or

(b) in the case of a curtailment having the effect of removing any motor vehicle from the licence, the motor vehicle may not be used as mentioned in paragraph (a) above and shall not be capable of being effectively specified in any other operator's licence,

and an order made under this subsection shall cease to have effect on such date, not being more than 6 months after the order is made, as may be specified therein or, if it is earlier, on the date on which the licence which is directed to be suspended or curtailed ceases to be in force.**]**

(8) A licensing authority who has made an order or given a direction under subsection (5), (6) **[**F236(7) or (7A)**]** of this section may, in such circumstances as may be prescribed, cancel that order or direction.

(9) A licensing authority shall not—

(a) give a direction under subsection (1) or (2) of this section in respect of any licence; or

(b) make an order or give a direction under subsection (5), (6) or (7) of this section in respect of any person,

[F237or

(c) make an order under subsection (7A) of this section in respect of any vehicle**]**without first holding an inquiry if the holder of the licence or that person, as the case may be, requests him to do so.

(10) The licensing authority may direct that any direction or order given or made by him under subsection (1), (2), (5), (6) **[**F238(7) or (7A)**]** of this section shall not take effect until the expiration of the time within which an appeal may be made to the Transport Tribunal against the direction or order and, if such an appeal is made, until the appeal has been disposed of; and if the licensing authority refuses to give a direction under this subsection the holder of the licence, or, as the case may be, the person in respect of whom the direction or order was given or made under any of those subsections, may apply to the tribunal for such a direction, and the tribunal shall give its decision on the application within fourteen days.

(11) For the purposes of this section a person holds a controlling interest in a company if he is the beneficial owner of more than half its equity share capital as defined in **[**F239section 744 of the Companies Act 1985**]**.

Textual Amendments

F213 Words inserted by Road Traffic Act 1974 (c. 50, SIF 107:1), **Sch. 4 para. 4(1)**

F214 Words repealed by Transport Act 1982 (c. 49, SIF 126), **Sch. 6**

F215 Words "paragraphs (a) to (ffff)" substituted (*prosp.*) for words "paragraphs (a) to (fff)" by virtue of Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(1), 164(3), **Sch. 15 para. 10(2)(a)**

F216 S. 69(3A) inserted by S.I. 1984/176, **reg. 36(3)**(*b*)

F217 Words inserted by Road Traffic Act 1974 (c. 50, SIF 107:1), **Sch. 4 para. 4(2)**

F218 Words inserted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 6(2)(a)**

F219 Words repealed by Transport Act 1982 (c. 49, SIF 126), **Sch. 6**

F220 S. 69(4)(*d*) repealed by Employment Act 1980 (c. 42, SIF 43:5), **Sch. 2**

F221 Words inserted by Hydrocarbon Oil Duties Act 1979 (c. 5, SIF 40:1), **Sch. 6 para. 2**

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F222 S. 69(4)(*ee*)(*eee*) inserted by International Road Haulage Permits Act 1975 (c. 46, SIF 126), **s. 3(1)**
F223 Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 6(2)(b)**
F224 Words inserted by Road Traffic Act 1972 (c. 20, SIF 107:1), **Sch. 7**
F225 Words inserted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 6(2)(c)**
F226 S. 69(4)(*ff*)(*fff*) inserted by S.I. 1984/176, **reg. 36(3)**(*c*)
F227 S. 69(4)(ffff) inserted(prosp.) by virtue of Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(1), 164(3), **Schedule 15**, para. 10(2)(b).
F228 Word inserted by Road Traffic Act 1974 (c. 50, SIF 107:1), **Sch. 4 para. 4(2)**
F229 Words substituted by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), s. 144, **Sch. 13 para. 6**(*a*)
F230 Words added by Road Traffic Act 1974 (c. 50, SIF 107:1), **Sch. 4 para. 4(2)**
F231 Words substituted by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), s. 144, **Sch. 13 para. 6**(*b*)
F232 Words inserted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 6(2)(d)**
F233 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)
F234 Words inserted by Road Traffic Act 1974 (c. 50, SIF 107:1), **Sch. 4 para. 4(3)**
F235 S. 69(7A) inserted by Road Traffic Act 1974 (c. 50, SIF 107:1), **Sch. 4 para. 4(4)**
F236 Words substituted by Road Traffic Act 1974 (c. 50, SIF 107:1), **Sch. 4 para. 4(5)**
F237 Words inserted by Road Traffic Act 1974 (c. 50, SIF 107:1), **Sch. 4 para. 4(6)**
F238 Words substituted by Road Traffic Act 1974 (c. 50, SIF 107:1), **Sch. 4 para. 4(7)**
F239 Words substituted by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27) s. 30, Sch. 2

Marginal Citations

M20 1952 c. 44.
M21 1971 c. 12.
M22 1979 c. 5.**(40:1).**
M23 1975 c. 46.**(126).**
M24 1967 c. 30.
M25 1984 c. 27.**(107:1).**
M26 1967 c. 30.
M27 1972 c. 20.**(107:1).**

[F240 69A Operating centres for authorised vehicles to be specified in operators' licences. E+W+S

(1) A person may not use a place in the area of any licensing authority as an operating centre for authorised vehicles under any operator's licence granted to him by that authority unless it is specified in that licence.

(2) A person applying for an operator's licence shall give to the licensing authority a statement giving such particulars as the authority may require of each place in the area of the authority which will an operating centre of the applicant if the licence is granted.

(3) Without prejudice to section 62(4) of this Act, a person applying for an operator's licence shall also, if he is required by the licensing authority so to do, give to him such particulars as he may require with respect to the use which the applicant proposes to make, for authorised vehicles under the licence, of any place referred to in the statement under subsection (2) of this section.

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(4) Any person who contravenes subsection (1) of this section shall be liable on summary conviction to a fine not exceeding **[**[F241]level 4 on the standard scale**].]**

Textual Amendments

F240 Ss. 69A–69G inserted by Transport Act 1982 (c. 49, SIF 126), **Sch. 4 Pt. I**

F241 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)

[[F242]69B Objection to, or refusal or modification of, applications for operators' licences on environmental grounds. E+W+S

(1) Any person entitled by virtue of section 63(3) of this Act to object to the grant of any application for an operators' licence on the ground there mentioned may also object to the grant of any such application on the ground that any place which, if the licence is granted, will be an operating centre of the holder of the licence is unsuitable on environmental grounds for use as such.

(2) In the case of any such application, any person who is the owner or occupier of land in the vicinity of any place which, if the licence is granted, will be an operating centre of the holder of the licence may make representations against the grant of the application on the ground that the place is unsuitable on environmental grounds for use as such, provided that any adverse effects on environmental conditions arising from that use would be capable of prejudicially affecting the use or enjoyment of the land.

(3) Where any objection or representations are duly made under this section in respect of any application for an operators' licence, the licensing authority may in any case refuse the application on the ground that the parking of authorised vehicles under the licence at or in the vicinity of any place which, if the licence were granted, would be an operating centre of the holder of the licence would cause adverse effects on environmental conditions in the vicinity of that place.

(4) Where any objection or representations are duly so made in respect of any such application, the licensing authority may refuse the application, subject to subsection (5) of this section, on the ground that any place which, if the licence is unsuitable for use as such on environmental grounds other than the ground mentioned in subsection (3) of this section.

(5) A licensing authority may not refuse an application for an operator's licence under subsection (4) of this section if the applicant satisfies the authority that the grant of the application will not result in any material change as regards—

(a) the places in the area of the authority used or to be used as operating centres for authorised vehicles under any operator's licence previously granted by the authority or under the licence applied for; or

(b) the use of any such place already in the use as an operating centre under an existing licence so granted.

(6) Without prejudice to the power of a licencing authority to issue an operator's licence subject to either or both of the modifications of limitations mentioned in section 64(4) of this Act, in case where—

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(a) the authority has power to refuse an application for any such licence under subsection (3) or (4) of this section; and

(b) any place other than a place unsuitable for use as an operating centre is referred to in the statement under section 69A(2) of this Act as a proposed operating centre of the applicant;

the authority may, instead of refusing the application, issue the licence specifying in it only such place or places referred to in that statement as are not unsuitable for use as an operating centre.

For the purposes of this subsection, a place referred to in any such statement given to a licensing authority has power to refuse the application under subsection (3) or (4) of this section in consequence of the proposed use of that place as an operating centre.

(7) A request for the grant of a licence under section 67(5) of this Act pending the determination of a current application for an application for an operator's licence for the purposes of this section, but in granting a licence under section 67(5) a licensing authority may specify in the licence such place or places referred to in the statement given to the authority given to the authority by the applicant under section 69A(2) of this Act as the authority thinks fit.**]**

Textual Amendments

F242 Ss. 69A–69G inserted by Transport Act 1982 (c. 49, SIF 126), **Sch. 4 Pt. I**

[F243 69C Conditions as to the use of operating centres. E+W+S

(1) Subject to the following provisions of this section, a licensing authority may attach such conditions to an operator's licence as appear to him to be appropriate for the purpose of preventing or minimising any adverse effects on environmental conditions arising from the use for authorised vehicles under the licence in the area of the authority.

(2) The conditions which may be attached to a licence under this section shall be of such description as may be prescribed; and, without prejudice to the generality of the preceding provision, the descriptions which may be prescribed include conditions regulating—

(a) the number, type and size of motor vehicles or trailers which may at any operating centre of the holder of the licence in the area of the authority for any prescribed purpose;

(b) the parking arrangements to be provided at or in the vicinity of any such centre; and

(c) the hours at which operations of any prescribed description may be carried on at any such centre.

(3) Subject to subsection (4) of this section, the licensing authority by whom an operator's licence was granted may at any time vary or remove any condition attached to the licence under this section.

(4) The power to attach a condition to an operator's licence under this section shall be exercisable by a licensing authority on granting the licence; and that power, and the power to vary or remove any condition so attached, shall also be exersisable in

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accordance with section 69D of this Act on an application by the holder for variation of the licence.

(5) Where a licensing authority is precluded by section 69B(5) of this Act from refusing an application for an operator's licence, the authority may not attach any condition to the licence under this section without first giving the applicant for the licence an opportunity to make representations to the authority with respect to the effect on his business of any condition the authority proposes to attach; and where the applicant makes any such representations the authority shall give special consideration to those representations in determining whether to attach the proposed condition on granting the licence.

(6) Any person who contravenes any condition attached under this section to a licence of which he is the holder shall be liable on summary conviction to a fine not exceeding **[**F244level 4 on the standard scale**].]**

Textual Amendments

F243 Ss. 69A–69G inserted by Transport Act 1982 (c. 49, SIF 126), **Sch. 4 Pt. I**

F244 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)

[F245 69D Variation of operators' licences with respect to operating centres and conditions affecting their use, etc. E+W+S

(1) Subject to section 69E of this Act, on the application of the holder of an operator's licence, the licensing authority by whom the licence was granted may at any time while it is in force vary the licence by directing—

(a) that a new place shall be specified in the licence as an operating centre of the holder of the licence, or that any place so specified shall cease to be so specified; or

(b) that any condition attached to the licence under section 69C of this Act shall be varied or removed.

(2) A person applying for the variation of an operator's licence under this section shall give to the licensing authority such information as he may reasonably require for the discharge of his duties in relation to the application.

(3) The licensing authority shall publish in the prescribed manner notice of any application for a variation under this section, unless the licensing authority is satisfied that the application is of so trivial a nature that it is not necessary that an opportunity should be given for objecting to it or making representations against it.

(4) Any person entitled to object to the grant of any application for a variation of which notice has been published under section 68(4) of this Act may object to the grant of any application for a variation of which notice has been published under section 68(4) or under subsection (3) of this section on either of the following grounds, that is to say—

(a) that any place which, if the application for variation is granted, will be an operating centre of the holder of the licence is unsuitable on environmental conditions in the vicinity of that centre.

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(5) Subject to subsection (6) of this section, any person who is the owner or occupier of land in the vicinity of—

(a) any place which, if the application for variation is granted, will be an operating centre of the holder of the licence; or

(b) any existing operating of the holder of the licence to which the application relates;

may make representations against the grant of any application for a variation of which notice has been published under section 68(4) of this Act or under subsection (3) of this section on either of the grounds mentioned in subsection (4) of this section, but so far as relates to that place or operating centre.

(6) A person may not be virtue of subsection (5) of this section make representations against the grant of an application for variation of an operator's licence unless any adverse effects on environmental conditions arising from the use of the place or operating centre in question would be capable of prejudicially affecting the use or enjoyment of the land there mentioned.

(7) Where any objection or representations are duly made under this section in respect of any application for a variation of an operator's licence, the licensing authority may refuse the application in any case where it appears to him that the application ought to be refused on either of the grounds mentioned in subsection (4) of this section.

(8) In any case in which the licensing authority grants an application for a variation of an operator's licence of which notice has been published under section 68(4) of this Act or under subsection (3) of this section, the licensing authority may direct that any condition attached to the licence under section 69C of this Act shall be varied or removed or that a condition shall be attached to the licence under that section.

(9) If an applicant under this section so requests, the licensing authority may, pending the determination of the application, give an interim direction under subsection (1) or (8) of this section, that is to say, a direction expressed to continue in force only until the application, and any appeal arising out of it, have been disposed of; and a request for such a direction shall not for the purposes of subsection (3) to (7) of this section be treated as an application for a variation under this section.**]**

Textual Amendments

F245 Ss. 69A–69G inserted by Transport Act 1982 (c. 49, SIF 126), **Sch. 4 Pt. I**

[F246 69E Publication of notice of applications for licences and variations in localities affected. E+W+S

(1) The licensing authority for any area shall refuse—

(a) any application to the authority for an opportunity for an operator's licence; and

(b) any application to the authority for the variation of an operator's licence of which notice has been published under section 68(4) or 69D(3) of this Act;

without considering the merits of the application unless he is satisfied that notice of the application in such form and containing such information as may be prescribed has been published within the period mentioned in subsection (2) of this section in a local newspaper or newspapers circulating in each locality affected by the application.

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(2) The period referred to in subsection (1) of this section is the period beginning twenty-one days before the date on which the application is made and ending twenty-one days after that date.

(3) For the purposes of this section a locality shall be taken to be affected by an application to a licensing authority for, or for the variation of, an operator's licence if it contains any place in the area of the authority which will be an operating centre of the holder of the licence if the application is granted, or (in the case of an application for variation) any existing operating centre of the holder of the licence to which the application relates.**]**

Textual Amendments
F246 Ss. 69A–69G inserted by Transport Act 1982 (c. 49, SIF 126), **Sch. 4 Pt. I**

70 Rights of appeal in connection with operators' licences. E+W+S

(1) Subject to subsection (2) of this section, a person who—

(a) being an applicant for, or for the variation of, an operator's licence, is aggrieved by the refusal of the application or, as the case may be, by the terms or conditions of the licence or of the variation; or

(b) being the holder of an operator's licence in respect of which, or a person in respect of whom, **[**F247or the holder of an operator's licence which specifies a motor vehicle in respect of which**]** a direction or order has been given or made under section 61(6) or 69(1) to **[**F248(7A)**][**F249or 69F(1) **]**of this Act, is aggrieved by that direction or order, or

(c) having duly made an objection to an application for, or for the variation of, an operator's licence, is aggrieved by the grant of the application,

may appeal to the Transport Tribunal.

(2) No appeal shall lie under the foregoing subsection on the ground that a direction has been given under subsection (3) of section 67 of this Act if it has been given by virtue of paragraph (b) of the said subsection (3).

Textual Amendments
F247 Words inserted by Road Traffic Act 1974 (c. 50), **Sch. 4 para. 5**
F248 Word substituted by Road Traffic Act 1974 (c. 50), **Sch. 4 para. 5**
F249 Words inserted by Transport Act 1982 (c. 49, SIF 126), **Sch. 4 Pt. II para. 4**

Modifications etc. (not altering text)
C77 S. 70(1) extended by S.I. 1984/176, **reg. 9(3)**

[**F250 Further provisions about operating centres**]

Textual Amendments
F250 Crossheading inserted (*prosp.*) by 1994 c. 40, **ss. 50(1)**, 82(4)

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[F251]69EAPeriods of review for operating centres. E+W+S

(1) Within such time after any period of review as may be prescribed, the licensing authority by whom an operator's licence was granted may serve a notice on the licence-holder stating that the authority is considering whether to exercise any of his powers under sections 69EB and 69EC of this Act in relation to a place specified in the licence as an operating centre of the licence-holder.

(2) The periods of review in relation to an operator's licence are—

(a) the period of five years beginning with the date specified in the licence as the date on which it came into force; and

(b) each consecutive period of five years.

(3) Regulations may amend subsection (2) of this section by substituting a higher or lower number (but not a number lower than five) for the number of years currently mentioned in paragraphs (a) and (b).

(4) Regulations may make provision as to the manner in which notices under this section are to be or may be served, including provision as to the circumstances in which and time at which any such notice is to be treated as having been duly served (whether or not it has in fact been served).

Textual Amendments

F251 S. 69EA inserted (*prosp.*) by 1994 c. 40, **ss. 50(1)**, 82(4)

[F252]69EBPower to remove operating centres on review. E+W+S

(1) If, having served notice under section 69EA of this Act in respect of a place specified in an operator's licence, the licensing authority determines that the place is unsuitable—

(a) on grounds other than environmental grounds; or

(b) on the ground mentioned in subsection (2) of this section,

for use as an operating centre of the licence-holder, he may (subject to subsection (3) of this section) direct that it cease to be specified in the licence.

(2) The ground referred to in subsection (1)(b) of this section is that the parking of vehicles used under the licence at or in the vicinity of the place causes adverse effects on environmental conditions in that vicinity.

(3) Where the only ground for giving a direction under subsection (1) of this section is the ground mentioned in subsection (2) of this section, the authority may not give such a direction unless during the period of review in question representations were made to him—

(a) by a person such as is mentioned in section 63(3) of this Act; or

(b) by a person who is the owner or occupier of any land in the vicinity of the place in question,

as to the place's unsuitability on environmental grounds for continued use as an operating centre for vehicles used under any operator's licence.

(4) Representations made by a person such as is mentioned in subsection (3)(b) of this section shall be disregarded for the purposes of this section if, when they were made, any adverse effects on environmental conditions arising from the continued use of the

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place in question would not have been capable of prejudicially affecting the use or enjoyment of the land mentioned in subsection (3)(b).

Textual Amendments

F252 S. 69EB inserted (*prosp.*) by 1994 c. 40, **ss. 50(1)**, 82(4)

F253 69EC Powers to attach conditions etc. on review. E+W+S

(1) If, having served notice under section 69EA of this Act in respect of a place specified in an operator's licence, the licensing authority does not give a direction in respect of the place under section 69EB of this Act, he may direct—

(a) that conditions (or additional conditions) such as are mentioned in section 64B, 66(1)(c) or 69C of this Act be attached to the licence;

(b) that any conditions already attached to the licence under section 64B, 66(1)(c) or 69C be varied.

(2) Any conditions attached to the licence under subsection (1)(a) of this section shall relate (or in the case of conditions such as are mentioned in section 66(1)(c) of this Act, only require the authority to be informed of events that relate) only to the place referred to in subsection (1) of this section (or only to that place and any other places in respect of which the authority has power to attach conditions under that subsection).

(3) Any variation under subsection (1)(b) of this section shall be such as imposes new or further restrictions or requirements in relation to that place, and only that place (or only that place and any other such places).

(4) Where the licensing authority gives a direction in respect of an operator's licence under section 69EB of this Act or subsection (1)(a) of this section, he may also vary the licence by directing—

(a) that any vehicle cease to be specified in the licence;

(b) that any maximum number specified in the licence under section 61A of this Act be reduced;

(c) that a provision such as is mentioned in section 61(1A) of this Act be included in the licence;

(d) that a provision such as is mentioned in section 61A(1)(b) or (2)(b) of this Act be included in the licence.

(5) In this Part of this Act any reference, in relation to an operator's licence, to a condition attached to the licence under section 64B, 66, or 69C of this Act includes any condition such as is mentioned in section 64B, 66 or (as the case may be) 69C that was attached to the licence under subsection (1)(a) of this section.

Textual Amendments

F253 S. 69EC inserted (*prosp.*) by 1994 c. 40, **ss. 50(1)**, 82(4)

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F254 69ED Transfer of operating centres. E+W+S

Schedule 8A to this Act (which makes provision in relation to certain applications for, or for the variation of, operators' licences where the proposed operating centres of the applicant are already specified in an operator's licence) shall have effect.

Textual Amendments

F254 S. 69ED inserted (*prosp.*) by 1994 c. 40, **ss. 50(1)**, 82(4)

[F255 69F Revocation, etc. of operators' licences for breach of provisions controlling use of operating centres. E+W+S

(1) Subject to subsection (2) of this section, the licensing authority by whom an operator's licence was granted may direct that it be revoked, suspended, terminated on a date earlier than that on which it would otherwise expire under section 67 of this Act, or curtailed on the ground that the holder of the licence has contraved section 69A of this Act or any condition attached to his licence under section 69C of this Act; and during any time of suspension the licence shall be of no effect.

(2) Section 69 of this Act shall apply as if the power to give a direction under subsection (1) of this section and the ground there mentioned were respectively conferred by and mentioned in subsection (1) of that section.**]**

Textual Amendments

F255 Ss. 69A–69G inserted by Transport Act 1982 (c. 49, SIF 126), **Sch. 4 Pt. I**

[F256 69G Provisions supplementary to sections 69A to 69F. E+W+S

(1) Any objection or representations under section 69B or 69D of this Act shall contain particulars of any matters alleged by the person making the objection or representations to be relevant to the determination of the licensing authority to which the objections or representations relate; and the onus of proof of any matters so alleged shall lie on the person making the objection or representations.

(2) Any objection or representation under either of those sections with respect to any application for, or for the variation of, an operator's licence shall be made within the prescribed time and in the prescribed manner, which—

(a) may differ for representations from that prescribed for objections; and

(b) shall in either case be stated in the notice of the application published under section 63(1) of this Act or (as the case may be) under section 68(4) of this Act.

(3) In making any of the following determinations, that is to say—

(a) any determination with respect to the suitability of any place on environmental grounds for use as an operating centre for authorised vehicles under an operator's licence;

the licensing authority shall have regard to such considerations as may be prescribed as relevant to determinations of that description.

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(4) In making any such determination for the purposes of exercising any of his powers under sections 69B to 69D of this Act in relation to an application for or for the variation of, an operator's license, the licensing authority shall also have regard to—

(a) any information supplied by the applicant in accordance with section 68, 69A or 69D of this Act; and

(b) any objections or representations duly made under section 69B or 69D.

(5) Any statement or information to be given to a licensing authority under section 69A or 69D of this Act shall be given in such form as the authority may require.

(6) For the purposes of sections 69D(5)(*b*) and 69(3) of this Act an application for a variation of an operator's licence shall be taken to relate to an operating centre of the holder of the licence if any**]**

Textual Amendments

F256 Ss. 69A–69G inserted by Transport Act 1982 (c. 49, SIF 126), **Sch. 4 Pt. I**

F257 69H Determinations as to environmental matters: supplementary provisions. E+W +S

(1) In making any determination of a description mentioned in subsection (2) of this section, the licensing authority shall have regard to such considerations as may be prescribed as relevant to determinations of that description.

(2) The determinations referred to are—

(a) any determination with respect to the suitability of any place on environmental grounds for use as an operating centre of the holder of an operator's licence;

(b) any determination with respect to attaching any condition such as is mentioned in section 69C of this Act to an operator's licence or varying or removing any such condition attached to an operator's licence; and

(c) any determination with respect to the effect on environmental conditions in any locality of the use in any particular manner of any operating centre of the holder of an operator's licence.

(3) In making any such determination for the purposes of exercising—

(a) any of his functions in relation to an application for, or for the variation of, an operator's licence; or

(b) any of his functions under sections 69EA to 69EC of this Act,

the licensing authority may take into account any undertakings given by the applicant or licence-holder (or procured by him to be given) for the purposes of the application or the review under sections 69EA to 69EC, and may assume that those undertakings will be fulfilled.

(4) In making for those purposes a determination of a description mentioned in subsection (2)(a) or (c) of this section, the licensing authority may take into account any conditions such as are mentioned in section 69C of this Act that could be attached to the licence in question, and may assume that any conditions so attached will not be contravened.

(5) Where the licensing authority—

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(a) grants an application for, or for the variation of, an operator's licence; or

(b) having served notice under section 69EA of this Act in respect of any place specified in such a licence, exercises or determines not to exercise any of his powers under sections 69EB and 69EC of this Act in relation to that place,

any undertakings taken into account by the authority under subsection (4) of this section that the authority considers to be material to the application or (as the case may be) to his decision under sections 69EB and 69EC shall be recorded in the licence in question.

Textual Amendments

F257 Ss. 69G, 69H substituted (*prosp.*) for s. 69G by 1994 c. 40, ss. 57, 82(4), **Sch. 13 Pt. I para. 9**

VALID FROM 03/01/1995

[F258 Operators' licences: supplementary provisions]

Textual Amendments

F258 Crossheading inserted (3.1.1995) by 1994 c. 40, **s. 51**; S.I. 1994/3188, **arts. 2**, 3(g)

F259 69I Assessors. E+W+S

(1) In considering any financial question which appears to him to arise in relation to the exercise of his functions under this Part of this Act or M28 the Goods Vehicles (Operators' Licences, Qualifications and Fees) Regulations 1984, the licensing authority may be assisted by an assessor drawn from a panel of persons appointed for that purpose by the Secretary of State.

(2) The Secretary of State shall pay to any such assessor in respect of his services such remuneration as may be determined by the Secretary of State with the consent of the Treasury.

Textual Amendments

F259 S. 69I inserted (3.1.1995) by 1994 c. 40, **s. 51**; S.I. 1994/3188, **arts. 2**, 3(g)

Marginal Citations

M28 S.I. 1984/176.

[F260 69J Review of decisions. E+W+S

(1) Subject to subsection (2) of this section, the licensing authority may review and, if he thinks fit, vary or revoke any decision of his to grant or refuse—

(a) an application for an operator's licence; or

(b) an application for the variation of such a licence in a case where section 68(4) of this Act required notice of the application to be published,

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if he is satisfied that a procedural requirement imposed by or under any enactment has not been complied with in relation to the decision.

(2) The licensing authority may only review a decision under subsection (1) of this section—

(a) if, within such period after taking the decision as may be prescribed, he has given notice to the applicant or (as the case may be) the licence-holder that he intends to review the decision;

(b) if, within that period, a person who appears to him to have an interest in the decision has requested him to review it; or

(c) where neither paragraph (a) nor paragraph (b) of this subsection applies, if he considers there to be exceptional circumstances that justify the review.

(3) Regulations may make provision as to the manner in which notices under subsection (2)(a) of this section are to be or may be served, including provision as to the circumstances in which and time at which any such notice is to be treated as having been duly served (whether or not it has in fact been served).

(4) The variation or revocation of a decision under this section shall not make unlawful anything done in reliance on the decision before the variation or revocation takes effect.**]**

Textual Amendments

F260 S. 69J inserted (*prosp.*) by 1994 c. 40, **ss. 52**, 82(4)

Special authorisations for use of large goods vehicles

71 Control of the use of large goods vehicles. E+W+S

(1) F261

(6) For the purposes of. . . F262 the subsequent provisions of this Part of this Act, a large goods vehicle is a goods vehicle (other than a hauling vehicle) which—

(a) has a relevant plated weight exceeding **[**F263 16260 kilograms**]** or (not having a relevant plated weight) has an unladen weight exceeding **[**F263 5080**]**; or

(b) forms part of a vehicle combination (not being an articulated combination) which is such that—

(i) if all the vehicles comprised in the combination (or all of them except any small trailer) have relevant plated weights, the aggregate of the relevant plated weights of the vehicles comprised in the combination (exclusive of any such trailer) exceeds **[**F263 16260 kilograms**]**;

(ii) in any other case, the aggregate of the unladen weights of those vehicles (exclusive of any such trailer) exceeds **[**F263 5080**]**; or

(c) forms part of an articulated combination which is such that—

(i) if the trailer comprised in the combination has a relevant plated weight, the aggregate of the unladen weight of the motor vehicle comprised in the combination and the relevant plated weight of that trailer exceeds **[**F263 16260 kilograms**]**;

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(ii) in any other case, the aggregate of the unladen weights of the motor vehicle and the trailer comprised in the combination exceeds **[**F263 5080**]**.

In any provision of this subsection "relevant plated weight" means a plated weight of the description specified in relation to that provision by regulations; and in paragraph (b) of this subsection "small trailer" means a trailer having an unladen weight not exceeding **[**F263 1020 kilograms**]**.

(7) F261

(8) In this section—

"hauling vehicle" means a motor tractor, a light locomotive, a heavy locomotive or the motor vehicle comprised in an articulated combination;

F264 (9) F261

Textual Amendments

F261 Ss. 71(1)–(5)(7)(9)(10), 72–80, 87(2), 94(4)–(6) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

F262 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

F263 Words substituted by S.I. 1981/1373, **Sch. Pt. III**A.

F264 Definition repealed by Transport Act 1980 (c. 34), **Sch. 9 Pt. II**

72—80. F265 . . . . . **E+W+S**

Textual Amendments

F265 Ss. 71(1)–(5)(7)(9)(10), 72–80, 87(2), 94(4)–(6) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

Enforcement

81 Consignment notes. E+W+S

(1) Subject to subsection (2) of this section, no goods shall be carried on a large goods vehicle unless a document (in this section referred to as a "consignment note") in the prescribed form and containing the prescribed particulars has been completed and signed in the prescribed manner and is carried by the driver of the vehicle.

(2) Subsection (1) of this section shall not apply—

(a) to the carriage of goods on any journey or in a vehicle of any class exempted from that subsection by regulations; or

(b) to any carriage of goods which is lawful without the authority of an operator's licence;

and, subject to the provisions of regulations, a licensing authority may dispense with the observance, as respects the carriage of goods under an operator's licence granted by him, of any requirement of that subsection, and may grant such a dispensation either generally, or as respects a particular vehicle, or as respects the use of vehicles for a

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particular purpose, but he shall not grant such a dispensation unless satisfied that it is not reasonably practicable for the requirement dispensed with to be observed.

(3) The consignment note relating to the goods carried by a vehicle on any journey shall, at the conclusion of that journey, be preserved for the prescribed period by the person who used the vehicle. . . F266 for carrying the goods on that journey.

(4) Any person who uses or drives a vehicle in contravention of subsection (1) of this section or who fails to comply with subsection (3) thereof shall be liable on summary conviction to a fine not exceeding **[**F267level 4 on the standard scale**]**.

Textual Amendments

F266 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

F267 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)

82 Powers of entry and inspection. E+W+S

(1) An officer may, on production if so required of his authority, require any person to produce and permit him to inspect and copy—

(a) any. . . F268 document which is required by or under section. . . F268 81 of this Act to be carried by that person as driver of a vehicle;

(b) any. . . F268 document which that person is required by or under **[**F269that section**]** to preserve;

and that. . . F268 document shall, if the officer so requires by notice in writing served on that person, be produced at the office of the licensing authority specified in the notice within such time (not being less than ten days) from the service of the notice as may be so specified.

(2) An officer may, on production if so required of his authority—

(a) at any time, enter any large goods vehicle and inspect that vehicle and any goods carried by it;

(b) at any time which is reasonable having regard to the circumstances of the case, enter any premises on which he has reason to believe that such a vehicle is kept or that any such. . . F268 documents as are mentioned in subsection (1) of this section are to be found, and inspect any such vehicle, and inspect and copy any such. . . F268 document, which he finds there.

(3) For the purpose of exercising his powers under subsection (1)(a) or (2)(a) of this section, an officer may detain the vehicle in question during such time as is required for the exercise of that power.

(4) An officer may, at any time which is reasonable having regard to the circumstances of the case, enter any premises of an applicant for an operator's licence or of the holder of such a licence and inspect any facilities on those premises for maintaining the authorised vehicles in a fit and serviceable condition.

(5) Any person who—

(a) fails to comply with any requirement under subsection (1) of this section; or

(b) obstructs an officer in the exercise of his powers under subsection (2), (3) or (4) of this section,

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shall be liable on summary conviction to a fine not exceeding **[**F270level 3 on the standard scale**]**.

(6) If an officer has reason to believe that a document or article carried on or by the driver of a vehicle, or a document produced to him in pursuance of this Part of this Act or Schedule 9 thereto, is a document or article in relation to which an offence has been committed under—

(a) section 83 of this Act; or

(b) section 233 or 235 of the Act of 1960 as amended by Schedule 10 to this Act,

he may seize that document or article; and where a document or article is seized as aforesaid and within six months of the date on which it was seized no person has been charged since that date with an offence in relation to that document or article under any of those sections and that document or article is still detained, a magistrates' court shall, on an application made for the purpose by the driver or owner of the vehicle, by the person from whom the document was seized or by an officer, make such order respecting the disposal of the document or article and award such costs as the justice of the case may require.

(7) Any proceedings in Scotland under the last foregoing subsection shall be taken by way of summary application in the sheriff court; and in the application of that subsection to Scotland references to costs shall be construed as references to expenses.

(8) In this section "officer" means an examiner appointed under **[**F271section 68 of the Road Traffic Act 1988**]** and any person authorised for the purposes of this section by the licensing authority for any area.

(9) The powers conferred by this section on an officer as defined in subsection (8) of this section shall be exercisable also by a police constable who shall not, if wearing uniform, be required to produce any authority.

Textual Amendments

F268 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

F269 Words substituted by Transport Act 1980 (c. 34), **s. 66(2)(a)**

F270 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)

F271 Words substituted by virtue of Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 6(3)**

83 Falsification of consignment notes and records. E+W+S

Any person who makes, or causes to be made, any. . . F272 document required to be made under section. . . F272 81 of this Act which he knows to be false or, with intent to deceive, alters or causes to be altered any such. . . F272 document shall be liable—

(a) on summary conviction, to a fine not exceeding £200;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years.

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Textual Amendments

F272 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

84 Evidence by certificate. E+W+S

In any proceedings for an offence under this Part of this Act or Schedule 9 thereto a certificate signed by or on behalf of a licensing authority and stating—

(a) that, on any date, a person was or was not the holder of an operator's licence,. . . F273. . . F274 granted by the authority;

(b) the dates of the coming into force and expiration of any such licence. . . F273 granted by the authority;

(c) the terms and conditions of any operator's licence. . . F273 granted by the authority;

(d) that a person is by virtue of an order of the authority disqualified from holding or obtaining an operator's licence,. . . F273. . . F274 licence indefinitely or for a specified period;

(e) that a direction, having effect indefinitely or for a specified period, has been given by the licensing authority under section 69(6) of this Act in relation to any person;

(f) that, on any date or during any specified period, any such licence. . . F273 granted by the authority was of no effect by reason of a direction that it be suspended,

shall be evidence, and in Scotland sufficient evidence, of the facts stated; and a certificate stating any of the matters aforesaid and purporting to be signed by or on behalf of a licensing authority shall be deemed to be so signed unless the contrary is proved.

Textual Amendments

F273 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

F274 Words repealed by Transport Act 1982 (c. 49, SIF 126), **Sch. 6**

Modifications etc. (not altering text)

C78 S. 84 extended by S.I. 1977/1462, **reg. 11(1)**

Supplementary

85 Holding companies and subsidiaries. E+W+S

(1) The Minister may by regulations make provision for the purpose of enabling any company, or other body corporate, which has one or more subsidiaries to hold—

(a) an operator's licence under which the authorised vehicles consist of or include vehicles belonging to or in the possession of any of its subsidiaries;

(b) F275

(2) Regulations under this section may modify or supplement any of the provisions of this Part of this Act or **[**F276Schedule 10**]** thereto so far as appears to the Minister to be necessary or expedient for the purpose mentioned in subsection (1) of this section

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or in connection therewith, and may contain such other supplementary and incidental provisions as appear to the Minister to be requisite.

Textual Amendments

F275 S. 85(1)(b) repealed by Transport Act 1980 (c. 34), **Sch. 9 Pt. II**

F276 Words substituted by Transport Act 1982 (c. 49, SIF 126), **Sch. 5 para. 6**

VALID FROM 03/11/1994

[F277 85A Partnerships. E+W+S

Regulations may provide for this Part of this Act to apply in relation to partnerships with such modifications as may be specified in the regulations.**]**

Textual Amendments

F277 S. 85A inserted (3.11.1994) by 1994 c. 40, **ss. 54**, 82(3)(e)

86 Operators' licences and special authorisations not to be transferable. E+W+S

Subject to any provision made by regulations under section 85 of this Act, an operator's licence. . . F278 shall not be capable of being transferred or assigned, but provision may be made by regulations for treating a person carrying on the trade or business of the holder of an operator's licence. . . F278 as if he were the holder thereof (for such purposes, for such period and to such extent as may be specified in the regulations), in the event of the death, incapacity, **[**F279or bankruptcy of the holder or, in the case of a company, of the holder going into liquidation, of an administration order being made in relation to**]** the holder, or of the appointment of a receiver or manager in relation to the trade or business.

Textual Amendments

F278 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

F279 Words substituted by Insolvency Act 1985 (c. 65, SIF 27), s. 235, **Sch. 8 para. 16**

87 Inquiries. E+W+S

(1) A licensing authority may hold such inquiries as he thinks necessary for the proper exercise of his functions under this Part of this Act. . . F280

(2) F281

(3) Where, as respects the proposed exercise of his powers on any occasion under section 69. . . F282**[**F283or 69F**]** of this Act, a licensing authority receives a request for an inquiry from two or more persons he may hold a single inquiry in response to both or all of those requests.

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(4) Subject to any provision made by regulations, any inquiry held by a licensing authority for the purposes of this Part of this Act. . . [F280] shall be held in public.

(5) Information with respect to any particular trade or business which is given at any such inquiry while admission to the inquiry is restricted in accordance with regulations shall not, so long as that trade or business continues to be carried on, be disclosed except—

(a) with the consent of the person for the time being carrying on that trade or business; or

(b) for the purpose of the discharge by any person of his functions under this Part of this Act. . . [F280]; or

(c) with a view to the institution of, or otherwise for the purposes of, any legal proceedings pursuant to or arising out of this Part of this Act. . . [F280] (including proceedings before the Transport Tribunal);

and any person who discloses any information in contravention of this subsection shall be liable on summary conviction to a fine not exceeding **[**[F284]level 4 on the standard scale**]**.

Textual Amendments

F280 Words repealed by Transport Act 1982 (c. 49, SIF 126), **Sch. 6**

F281 Ss. 71(1)–(5)(7)(9)(10), 72–80, 87(2), 94(4)–(6) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

F282 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

F283 Words inserted by Transport Act 1982 (c. 49, SIF 126), **Sch. 4 Pt. II para. 5**

F284 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)

Modifications etc. (not altering text)

C79 S. 87 amended by S.I. 1977/1462, **reg. 11(1)**

88 Provisions relating to Transport Tribunal. E+W+S

. . . . . [F285]

Textual Amendments

F285 Ss. 88, 90 repealed by Transport Act 1985 (c. 67, SIF 126), s. 139(3), **Sch. 8**

Modifications etc. (not altering text)

C80 S. 88 amended by S.I. 1977/1462, **reg. 11(1)**

89 Fees. E+W+S

(1) Such fees, payable at such times, and whether in one sum or by instalments, as may be prescribed shall be charged by the licensing authority in respect of the grant or variation of operators' licences. . . [F286] . . . [F287]

(2) All fees payable under this Part of this Act. . . [F287] shall be paid into the Consolidated Fund in such manner as the Treasury may direct.

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Textual Amendments

F286 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

F287 Words repealed by Transport Act 1982 (c. 49, SIF 126), **Sch. 6**

90 Appointment and remuneration of officers and servants. E+W+S

. . . . . F288

Textual Amendments

F288 Ss. 88, 90 repealed by Transport Act 1985 (c. 67, SIF 126), s. 139(3), **Sch. 8**

Modifications etc. (not altering text)

C81 S. 90 amended by S.I. 1977/1462, **reg. 11(1)**

91 Regulations and orders for purposes of Part V. E+W+S

(1) The Minister may make regulations for any purpose for which regulations may be made under this Part of this Act and for prescribing anything which may be prescribed under this Part of this Act and generally for the purpose of carrying this Part of this Act into effect and, in particular, but without prejudice to the generality of the foregoing provisions of this subsection, may make regulations with respect to the following matters—

(a) the procedure on applications for, and the determination of questions in connection with, the grant and variation of operators' licences. . . F289, and the procedure under, and the determination of questions for the purposes of, **[**F290sections 69 and 69F**]** of this Act;

(b) the issue of operators' licences. . . F289 and the issue on payment of the prescribed fee of copies of such licences. . . F289 in the case of licences. . . F289 lost or defaced;

(c) the means by which vehicles may be identified, whether by plates, marks or otherwise, as being authorised vehicles. . . F289;

(d) the custody of operators' licences. . . F289, the production, return and cancellation of such licences. . . F289 on expiration or on the giving of a direction under section 69 **[**F291or 69F**]**. . . F289 of this Act, and the custody, production and return of documents and plates;

(e) the notification to the licensing authority of vehicles which have ceased to be used under an operator's licence. . . F289;

(f) the repayment in the prescribed circumstances of fees paid under this Part of this Act;

(g) the circumstances in which goods are to be treated for the purposes of this Part of this Act as carried for hire or reward and the circumstances in which goods are to be treated for those purposes as carried by any person for or in connection with a trade or business carried on by him;

and different regulations may be made as respects different classes of vehicles.

(2) The power conferred by subsection (1) of this section to make regulations with respect to the means by which vehicles are to be identified as being authorised vehicles. . . F289

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shall include power to require that any such means of identification prescribed for a vehicle shall be carried notwithstanding that for the time being the vehicle is not being used for a purpose for which an operator's licence. . . [F289] is required.

(3) The Minister may by regulations substitute for any weight, distance, volume or area specified by or under this Part of this Act a weight, distance, volume or area expressed in terms of the metric system, being a weight, distance, volume or area which is equivalent to that for which it is substituted or does not differ from it by more than five per cent. thereof.

(4) The Minister may make regulations—

(a) for providing that any provision of this Part of this Act shall, in relation to vehicles brought temporarily into Great Britain, have effect subject to such modifications as may be prescribed;

(b) . . . [F292]

and different provision may be made by the regulations for different classes of case.

(5) A definition or description of a class of vehicles for the purposes of any regulation under this Part of this Act may be framed by reference to any characteristic of the vehicles or to any other circumstances whatsoever.

(6) Any person who contravenes a provision of regulations under this section, a contravention of which is declared by the regulations to be an offence, shall be liable on summary conviction to a fine not exceeding **[**[F293]level 1 on the standard scale**]**.

(7) Any order or regulations made by the Minister under this Part of this Act. . . [F294] shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(8) Before making any regulations under this Part of this Act. . . [F294] the Minister shall consult with such representative organisations as he thinks fit.

Textual Amendments

F289 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

F290 Words substituted by Transport Act 1982 (c. 49, SIF 126), **Sch. 4 Pt. II para. 6**(*a*)

F291 Words inserted by Transport Act 1982 (c. 49, SIF 126), **Sch. 4 Pt. II para. 6**(*b*)

F292 S. 91(4)(b) repealed by Transport Act 1980 (c. 34), **Sch. 9 Pt. II**

F293 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)

F294 Words repealed by Transport Act 1982 (c. 49, SIF 126), **Sch. 6**

Modifications etc. (not altering text)

C82 S. 91 amended by S.I. 1977/1462, **regs. 3(5)**, 11(1)(2)

92 Interpretation of Part V. E+W+S

(1) In this Part of this Act. . . [F295], unless the context otherwise requires—

"articulated combination" means a combination made up of—

(a) a motor vehicle which is so constructed that a trailer may by partial superimposition be attached to the vehicle in such a manner as to cause a substantial part of the weight of the trailer to be borne by the vehicle, and

(b) a trailer attached to it as aforesaid:

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"authorised vehicle" means, in relation to an operator's licence, a vehicle authorised to be used thereunder, whether or not it is for the time being in use for a purpose for which an operator's licence is required and whether it is specified therein as so authorised or, being of a type so authorised subject to a maximum number, belongs to the holder of the licence or is in his possession under an agreement for hire-purchase, hire or loan;

"carriage of goods" includes haulage of goods;

"carrier's licence" means a licence granted under Part IV of the Act of 1960;

"contravention", in relation to any condition or provision, includes a failure to comply with the condition or provision, and "contravenes" shall be construed accordingly;

"driver" means, in relation to a trailer, the driver of the vehicles by which the trailer is drawn and "drive" shall be construed accordingly;

"goods" includes goods or burden of any description;

"goods vehicle" means, subject to subsection (5) of this section, a motor vehicle constructed or adapted for use for the carriage of goods, or a trailer so constructed or adapted;

"large goods vehicle" shall be construed in accordance with section 71 of this Act;

[F296"operating centre", in relation to any vehicle, means the base or centre at which the vehicle is normally kept, and references to an operating centre of the holder of an operator's licence are references to any place which is an operating centre for authorised vehicles under the licence**]**;

[F297"owner", in relation to any land in England and Wales, means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent, would be so entitled it it were so let**]**;

"prescribed" means prescribed by regulations;

"regulations" means regulations made by the Minister under this Part of this Act;

"subsidiary" means a subsidiary as defined by **[**F298section 736 of the Companies Act 1985**]**;

"vehicle combination" means a combination of goods vehicles made up of one or more motor vehicles and one or more trailers all of which are linked together when travelling;

and any expression not defined above which is also used in the Act of 1960 has the same meaning as in that Act.

(2) For the purposes of this Part of this Act, the driver of a vehicle, if it belongs to him or is in his possession under an agreement for hire, hire-purchase or loan, and in any other case the person whose servant or agent the driver is, shall be deemed to be the person using the vehicle; and references to using a vehicle shall be construed accordingly.

(3) In this Part of this Act references to directing that an operator's licence be curtailed are references to directing (with effect for the remainder of the duration of the licence or for any shorter period) all or any of the following, that is to say—

(a) that any one or more of the vehicles specified in the licence be removed therefrom;

(b) that the maximum number of trailers or of motor vehicles specified in the licence in pursuance of section 61(1)(b) or (c) of this Act be reduced;

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(c) that the addition of authorised vehicles under the said section 61(1)(c) be no longer permitted.

[F299(d) that any one or more of the places specified in the licence as operating centres be removed therefrom**]**.

(4) In this Part of this Act, references to the bankruptcy of a person shall, as respects Scotland, be construed as references to an award of sequestration having been made of his estate.

(5) In this Part of this Act. . . F295 references to goods vehicles do not include references to tramcars or trolley vehicles operated under statutory powers within the meaning of **[**F300Schedule 4 to the Road Traffic Act 1988**]**.

(6) Anything required or authorised by this Part of this Act to be done to or by a licensing authority by whom a licence. . . F301 was granted may be done to or by any person for the time being acting as licensing authority for the area for which the first-mentioned authority was acting at the time of the granting of the licence. . . F301.

Textual Amendments

F295 Words repealed by Transport Act 1982 (c. 49, SIF 126), **Sch. 6**

F296 Definition substituted by Transport Act 1982 (c. 49, SIF 126), **s. 52(1)**

F297 Definition inserted by Transport Act 1982 (c. 49, SIF 126), **Sch. 4 Pt. II para. 7**(*a*)

F298 Words substituted by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), s. 30, **Sch. 2**

F299 S. 92(3)(*d*) added by Transport Act 1982 (c. 49, SIF 126), **Sch. 4 Pt. II para. 7**(*b*)

F300 Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 6(4)**

F301 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

Modifications etc. (not altering text)

C83 S. 92 amended by S.I. 1977/1462, **reg. 11(1)**

Abolition of carriers' licensing for certain vehicles

93 Carriers' licences not to be required for small vehicles or for medium vehicles covered by operators' licences. E+W+S

(1) Section 164 of the Act of 1960 (users of goods vehicles to hold carriers' licences) shall cease to apply to the use of any vehicle the unladen weight of which does not exceed F302, and any carrier's licence so far as it authorises the use of such a vehicle shall cease to have effect.

(2) The said section 164 shall not apply to the use of any vehicle for the use of which an operator's licence is required, unless that vehicle is a large goods vehicle.

Textual Amendments

F302 Words substituted by S.I. 1981/1373, **Sch. Pt. III**A.

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Transitional provisions and amendments

94 Transitional provisions and amendments. E+W+S

(1) Where, before the day on which section 60 of this Act comes into force in relation to any vehicles, an application for an operator's licence is made in respect of those vehicles by a person who is the holder of a carrier's licence in respect of all or any of those vehicles, section 63 of this Act shall not apply to the application and section 64 of this Act shall apply to it with the omission of subsection (2)(b), (c) and (e).

(2) Notwithstanding section 171(3) of the Act of 1960 (which requires an application for a C licence under Part IV of that Act to be made to the licensing authority for the area in which the principal place of business of the applicant or his head office is situated), any application for such a licence in respect of vehicles which consist of or include vehicles in relation to which section 60 of this Act has come into force shall be made to the licensing authority (within the meaning of the said Part IV) for the area containing the operating centre or operating centres of the vehicles proposed to be used under the licence.

(3) F303

(4) F304

(7) The enactments specified in Part I of Schedule 10 to this Act shall have effect subject to the amendments there specified.

(8) On the appointed day for the purposes of this subsection—

(a) the enactments specified in Part II of Schedule 10 to this Act shall have effect subject to the amendments there specified;. . . F305

(b) . . . F305

. . . F306

(9) Regulations may provide for the repayment in the prescribed circumstances of fees paid under section 182 of the Act of 1960 in respect of carriers' licences which are in force on the appointed day for the purpose of the last foregoing subsection.

(10) If on the appointed day for the purposes of subsection (8) of this section—

(a) the operation of a wages regulation order in force under Part II of the M29Wages Councils Act 1959 depends on whether or not a vehicle is, or is deemed to be, specified in an A licence or a B licence granted under Part IV of the Act of 1960; or

(b) the description of the workers in relation to whom the Road Haulage Wages Council operates under that Act is such as to depend on whether or not a vehicle is, or is deemed to be, specified as aforesaid,

then, for the purposes of that order and that description, any vehicle which immediately before that day is, or for those purposes is deemed to be, specified as aforesaid, shall be treated as so specified on and after that day; and if on or after the day on which section 93 of this Act comes into force the operation of any such order depends on the matters mentioned in paragraph (a) of this subsection, or the description of the workers in relation to whom the said Council operates is such as mentioned in paragraph (b) of this subsection, then, for the purposes of that order and that description, any vehicle not specified as aforesaid shall be treated as so specified if used wholly or mainly for

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a purpose for which, but for the said section 93, an A licence or a B licence would be required.

Textual Amendments

F303 S. 94(3) repealed by Transport Act 1982 (c. 49, SIF 126), **Sch. 6**

F304 Ss. 71(1)–(5)(7)(9)(10), 72–80, 87(2), 94(4)–(6) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

F305 Word and s. 94(8)(b) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

F306 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

Modifications etc. (not altering text)

C84 The text of ss. 38(1), 41(8)(9), 44(4), 46(5), 50(10), 51(3), 52(4), 94(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

C85 S. 94(10) restricted by Post Office Act 1969 (c. 48), **s. 81(3)**

Marginal Citations

M29 1959 c. 69.

PART VI U.K.

DRIVERS' HOURS

Modifications etc. (not altering text)

C86 Pt. VI (ss. 95–103) modified by S.I. 1986/1459, **arts. 2**, 3

C87 Pt. VI (ss. 95-103) excluded (23.6.1999) by S.I. 1999/1736, **art. 8(1)(a)(6)(7)**

95 Vehicles and drivers subject to control under Part VI. E+W+S

(1) This Part of this Act shall have effect with a view to securing the observance of proper hours **[**F307or periods**]** of work by persons engaged in the carriage of passengers or goods by road and thereby protecting the public against the risks which arise in cases where the drivers of motor vehicles are suffering from fatigue. **[**F308but the Secretary of State may by regulations make such provision by way of substitution for or adaptation of the provisions of this Part, or supplemental or incidental to this Part, as he considers necessary or expedient to take account of the operation of any relevant Community provision.

(1A) Regulations under subsection (1) above may in particular—

(a) substitute different requirements for the requirements of the domestic drivers' hours code or add to, make exceptions from or otherwise modify any of the requirements of that code;

(b) apply to journeys and work to which no relevant Community provision applies;

(c) include provision as to the circumstances in which a period of driving or duty to which a relevant Community provision or the domestic drivers' hours code applies is to be included or excluded in reckoning any period for purposes

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of the domestic drivers' hours code or any relevant Community provision respectively; and

(d) may contain such transitional, supplemental or consequential provisions as the Secretary of State thinks necessary or expedient**]**

(2) This Part of this Act applies to—

(a) passenger vehicles, that is to say—

(i) public service vehicles; and

(ii) motor vehicles (other than public service vehicles) constructed or adapted to carry more than twelve passengers;

(b) goods vehicles, that is to say—

(i) heavy locomotives, light locomotives, motor tractors and any motor vehicle so constructed that a trailer may by partial superimposition be attached to the vehicle in such a manner as to cause a substantial part of the weight of the trailer to be borne by the vehicle; and

(ii) motor vehicles (except those mentioned in paragraph (a) of this subsection) constructed or adapted to carry goods other than the effects of passengers.

(3) This Part of this Act applies to any such person as follows (in this Part of this Act referred to as "a driver"), that is to say—

(a) a person who drives a vehicle to which this Part of this Act applies in the course of his employment (in this Part of this Act referred to as "an employee-driver"); and

(b) a person who drives such a vehicle for the purposes of a trade or business carried on by him (in this Part of this Act referred to as "an owner-driver");

and in this Part of this Act references to driving by any person are references to his driving as aforesaid.

Textual Amendments

F307 Words inserted with saving by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(d)**

F308 Words substituted with saving by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(d)(5)**

Modifications etc. (not altering text)

C88 S. 95 applied (with modifications) (S.) (4.1.1995) by 1994 c. 39, **s. 40(7)** (with s. 7(2)); S.I. 1994/2850, art. 3(a), **Sch. 2**

96 Permitted driving time and periods of duty. E+W+S

(1) Subject to the provisions of this section, a driver shall not on any working day drive a vehicle or vehicles to which this Part of this Act applies for periods amounting in the aggregate to more than ten hours.

(2) Subject to the provisions of this section, if on any working day a driver has been on duty for a period of, or for periods amounting in the aggregate to, five and a half hours and—

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(a) there has not been during that period, or during or between any of those periods, an interval of not less than half an hour in which he was able to obtain rest and refreshment; and

(b) the end of that period, or of the last of those periods, does not mark the end of that working day,

there shall at the end of that period, or of the last of those periods, be such an interval as aforesaid.

(3) Subject to the provisions of this section, the working day of a driver—

(a) except where paragraph (b) or (c) of this subsection applies, shall not exceed eleven hours;

(b) if during that day he is off duty for a period which is, or periods which taken together are, not less than the time by which his working day exceeds eleven hours, shall not exceed twelve and a half hours;

(c) if during that day—

(i) all the time when he is driving vehicles to which this Part of this Act applies is spent in driving one or more express carriages or contract carriages; and

(ii) he is able for a period of not less than four hours to obtain rest and refreshment,

shall not exceed fourteen hours.

(4) Subject to the provision of this section, there shall be, between any two successive working days of a driver, an interval for rest which—

(a) subject to paragraph (b) of this subsection, shall not be of less than eleven hours;

(b) if during both those days all or the greater part of the time when he is driving vehicles to which this Part of this Act applies is spent in driving one or more passenger vehicles, may, on one occasion in each working week, be of less than eleven hours but not of less than nine and a half hours;

and for the purposes of this Part of this Act a period of time shall not be treated, in the case of an employee-driver, as not being an interval for rest by reason only that he may be called upon to report for duty if required.

(5) Subject to the provisions of this section a driver shall not be on duty in any working week for periods amounting in the aggregate to more than sixty hours.

(6) Subject to the provisions of this section, there shall be, in the case of each working week of a driver, a period of not less than twenty-four hours for which he is off duty, being a period either falling wholly in that week or beginning in that week and ending in the next week; but—

(a) where the requirements of the foregoing provisions of this subsection have been satisfied in the case of any week by reference to a period ending in the next week, no part of that period (except any part after the expiration of the first twenty-four hours of it) shall be taken into account for the purpose of satisfying those requirements in the case of the next week; and

(b) those requirements need not be satisfied in the case of any working week of a driver who on each working day falling wholly or partly in that week drives one or more stage carriages if that week is immediately preceded by a week in the case of which those requirements have been satisfied as respects that driver or during which he has not at any time been on duty.

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(7) If in the case of the working week of any driver the following requirement is satisfied, that is to say, that, in each of the periods of twenty-four hours beginning at midnight which make up that week, the driver does not drive a vehicle to which this Part of this Act applies for a period of, or periods amounting in the aggregate to, more than four hours, the foregoing provisions of this section shall not apply to him in that week, except that the provisions of subsections (1), (2) and (3) shall nevertheless have effect in relation to the whole of any working day falling partly in that week and partly in a working week in the case of which that requirement is not satisfied.

(8) If on any working day a driver does not drive any vehicle to which this Part of this Act applies—

(a) subsections (2) and (3) of this section shall not apply to that day, and

(b) the period or periods of duty attributable to that day for the purposes of subsection (5) of this section shall, if amounting to more than eleven hours, be treated as amounting to eleven hours only.

(9) For the purposes of subsections (1) and (7) of this section no account shall be taken of any time spent driving a vehicle elsewhere than on a road if the vehicle is being so driven in the course of operations of agriculture or forestry.

[[F309]For the purposes of subsections (1) and (7) of section 96 no account shall be taken of any time spent in driving a goods vehicle elsewhere than on a road if the vehicle is being so driven in the course of **[**[F310]operations of quarrying or of**]** carrying out any work in the construction, reconstruction, alteration, extension or maintenance of, or of a part of, a building, or of any other fixed works of construction or civil engineering (including works for the construction, improvement or maintenance of a road) and, for the purposes of this exemption where the vehicle is being driven on, or on a part of a road in the course of carrying out any work for the improvement or maintenance of, or of that part of, that road, it shall be treated as if it were being driven elsewhere than on a road.**]**

(10) For the purpose of enabling drivers to deal with cases of emergency or otherwise to meet a special need, the Minister may by regulations—

(a) create exemptions from all or any of the requirements of subsections (1) to (6) of this section in such cases and subject to such conditions as may be specified in the regulations;

(b) empower the traffic **[**[F311]commissioner**]** for any area, subject to the provisions of the regulations—

(i) to dispense with the observance of all or any of those requirements (either generally or in such circumstances or to such extent as the **[**[F311]commissioner thinks**]** fit) in any particular case for which provision is not made under paragraph (a) of this subsection;

(ii) to grant a certificate (which, for the purposes of any proceedings under this Part of this Act, shall be conclusive evidence of the facts therein stated) that any particular case falls or fell within any exemption created under the said paragraph (a);

and regulations under this subsection may enable any dispensation under paragraph (b)(i) of this subsection to be granted retrospectively and provide for a document purporting to be a certificate granted by virtue of paragraph (b)(ii) of this subsection to be accepted in evidence without further proof.

(11) If any of the requirements of **[**[F312]the domestic drivers' hours code**]**, is contravened in the case of any driver—

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(a) that driver; and

(b) any other person (being that driver's employer or a person to whose orders that driver was subject) who caused or permitted the contravention,

shall be liable on summary conviction to a fine not exceeding **[**F313level 4 on the standard scale**]**; but a person shall not be liable to be convicted under this subsection if he proved to the court—

(i) that the contravention was due to unavoidable delay in the completion of a journey arising out of circumstances which he could not reasonably have foreseen; or

(ii) in the case of a person charged under paragraph (b) of this subsection, that the contravention was due to the fact that the driver had for any particular period or periods driven or been on duty otherwise than in the employment of that person or, as the case may be, otherwise than in the employment in which he is subject to the orders of that person, and that the person charged was not, and could not reasonably have become, aware of that fact.

[F314(11A) Where, in the case of a driver F315 of a motor vehicle, there is in Great Britain a contravention of any requirement of **[**F316the applicable Community rules**]** as to periods of driving, or distance driven, or periods on or off duty, then the offender and any other person (being the offender's employer or a person to whose orders the offender was subject) who caused or permitted the contravention shall be liable on summary conviction to a fine not exceeding **[**F313level 4 on the standard scale**]]**

[F317(11B) But a person shall not be liable to be convicted under subsection (11A) if—

(a) he proves the matters specified in paragraph (i) of subsection (11); or

(b) being charged as the offender's employer or a person to whose orders the offender was subject, he proves the matters specified in paragraph (ii) of that subsection**]**

(12) The Minister may by order—

(a) direct that subsection (1) of this section shall have effect with the substitution for the reference to ten hours of a reference to nine hours, either generally or with such exceptions as may be specified in the order;

(b) direct that paragraph (a) of subsection (3) of this section shall have effect with the substitution for the reference to eleven hours of a reference to any shorter period, or remove, modify or add to the provisions of that subsection containing exceptions to the said paragraph (a);

(c) remove, modify or add to any of the requirements of subsections (2), (4), (5) or (6) of this section or any of the exemptions provided for by subsections (7), (8) and (9) thereof;

and any order under this subsection may contain such transitional and supplementary provisions as the Minister thinks necessary or expedient, including provisions amending any definition in section 103 of this Act which is relevant to any of the provisions affected by the order.

[F318(13) In this Part of this Act "the domestic driver's hours code" means the provisions of subsections (1) to (6) of this section as for the time being in force (and, in particular, as modified, added to or substituted by or under any instrument in force under section 95(1) of this Act or subsection (10) or (12) of this section)**]**

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Textual Amendments

F309 Exemption added by S.I. 1970/257, **art. 4**

F310 Words inserted by S.I. 1971/818, **art. 5**(*b*)

F311 Words substituted by Transport Act 1985 (c. 67, SIF 126), s. 3, **Sch. 2 Pt. II para. 1(2)**

F312 Words substituted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(e)**

F313 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)

F314 S. 96(11A) inserted by European Communities Act 1972 (c. 68), **Sch. 4 para. 9(2)(a)**

F315 Words repealed by S.I. 1986/1457, **reg. 2**

F316 Words substituted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(c)**

F317 S. 96(11B) inserted by Transport Act 1978 (c. 55), **s. 10**

F318 S. 96(13) added by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(f)**

Modifications etc. (not altering text)

C89 Power to restrict s. 96 conferred by Energy Act 1976 (c. 76), s. 4(2), **Sch. 1 para. 3**

C90 S. 96(1)–(6) excluded by S.I. 1986/1458, **art. 2(1)**

[F319 97 Installation and use of recording equipment. E+W+S

[No person shall use, or cause or permit to be used, a vehicle to which this section F320(1) applies

[F321(a) unless there is in the vehicle recording equipment which—

(i) has been installed in accordance with the Community Recording Equipment Regulation;

(ii) complies with Annexes I and II to that Regulation; and

(iii) is being used as provided by **[**F322Articles 13 to 15**]** of that Regulation;**][**F323, or**]**

[F323(b) in which there is recording equipment which has been repaired (whether before or after installation) otherwise than in accordance with the Community Recording Equipment Regulation;**]**

and any person who contravenes this subsection shall be liable on summary conviction to a fine not exceeding **[**F324level 5**]** on the standard scale.**]**

[F325(1A) A person shall not be liable to be convicted under subsection (1) of this section if he proves to the court that he neither knew nor ought to have known that the recording equipment had not been installed or repaired, as the case may be, in accordance with the Community Recording Equipment Regulation.**]**

(2) A person shall not be liable to be convicted under subsection (1) **[**F326(a)**]** of this section if he proves to the court that the vehicle in question was proceeding to a place where recording equipment which would comply with the requirements of Annexes I and II of the Community Recording Equipment Regulation was to be installed in the vehicle in accordance with that Regulation.

(3) A person shall not be liable to be convicted under subsection (1) **[**F326(a)**]** of this section by reason of the recording equipment installed in the vehicle in question not being in working order if he proves to the court that—

(a) it had not become reasonably practicable for the equipment to be repaired by an approved fitter or workshop; and

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(b) the requirements of **[**F327Article 16(2)**]** of the Community Recording Equipment Regulation were being complied with.

(4) A person shall not be liable to be convicted under subsection (1) **[**F326(a)**]** of this section by reason of any seal on the recording equipment installed in the vehicle in question not being intact if he proves to the court that—

(a) the breaking or removal of the seal could not have been avoided;

(b) it had not become reasonably practicable for the seal to be replaced by an approved fitter or workshop; and

(c) in all other respects the equipment was being used as provided by **[**F328Articles 13 to 15**]** of the Community Recording Equipment Regulation.

(5) For the purposes of this section recording equipment is used as provided by **[**F328Articles 13 to 15**]** of the Community Recording Equipment Regulation if, and only if, the circumstances of its use are such that each requirement of those Articles is complied with.

(6) This section applies at any time to any vehicles to which this Part of this Act applies if, at that time, Article 3 of the Community Recording Equipment Regulation requires recording equipment to be installed and used in that vehicle; and in this section and sections 97A and 97B of this Act any expression which it is also used in that Regulation has the same meaning as in that Regulation.

(7) In this Part of this Act—

[F329"the Community Recording Equipment Regulation" means Council Regulation (EEC) No. 3821/85 of 20th December 1985 on recording equipment in road transport as read with the Community Drivers' Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations 1986;**]**

"recording equipment" means equipment for recording information as to the use of a vehicle.**]**

Textual Amendments

F319 Ss. 97, 97A, 97B substituted for s. 97 by S.I. 1979/1746, **reg. 2**

F320 S. 97(1) substituted by S.I. 1984/144, **reg. 2(1)**

F321 By S.I. 1989/2121, **art. 2(2)** it is provided that in s. 97(1) the words from "unless" to the end of paragraph (*c*) shall become paragraph*(a)*, with paragraphs (*a*), (*b*) and (*c*) becoming sub-paragraphs "(i)", "(ii)" and "(iii)" of that paragraph

F322 Words substituted by S.I. 1986/1457, **reg. 3(3)**(*a*)

F323 S. 97(1)(*b*) and word "or" preceding it inserted by S.I. 1989/2121, **art. 2(2)**

F324 Words substituted by S.I. 1989/2121, **art. 2(2)**

F325 S. 97(1A) inserted by S.I. 1989/2121, **art. 2(3)**

F326 "(a)" inserted by S.I. 1989/2121, **art. 2(4)**

F327 Words substituted by S.I. 1986/1457, **reg. 3(3)**(*b*)

F328 Words substituted by S.I. 1986/1457, **reg. 3(3)**(*a*)

F329 Definition substituted by S.I. 1986/1457, **reg. 3(1)(2)**(*a*)

[F330**97A Provisions supplementary to section 97.** E+W+S

(1) If an employed **[**F331driver**]** of a vehicle to which section 97 of this Act applies fails—

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(a) without reasonable excuse to return any record sheet which relates to him to his employer within twenty-one days of completing it; or

(b) where he has two more employers by whom he is employed as a **[**[F331]driver**]** of such a vehicle, to notify each of them of the name and address of the other or others of them,

he shall be liable on summary conviction to a fine not exceeding **[**[F332]level 4 on the standard scale**]**.

(2) If the employer of **[**[F333]drivers**]** of a vehicle to which section 97 of this Act applies fails without reasonable excuse to secure that they comply with subsection (1)(*a*) of this section, he shall be liable on summary conviction to a fine not exceeding **[**[F332]level 4 on the standard scale**]**.

(3) Where a **[**[F331]driver**]** of a vehicle to which section 97 or this Act applies has two of more employers by whom he is employed as a crew member of such a vehicle, subsection (1)(*a*) and subsection (2) of this section shall apply as if any reference to his employer, or any reference which is to be construed as such a reference, were a reference to such of those employers as was the first to employ him in that capacity.**]**

Textual Amendments

F330 Ss. 97, 97A, 97B substituted for s. 97 by S.I. 1979/1746, **reg. 2**

F331 Word substituted by S.I. 1986/1457, **reg. 3(3)**(*c*)

F332 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**) and by 1995 c. 40, ss. 3, 7(2), Sch. 1 para. 10, **Sch. 2 Pt. III** it is provided (S.) (1.4.1996) that s. 97A(1)(2) shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 4 on the standard scale instead of a fine not exceeding £200.

F333 Word substituted by S.I. 1986/1457, **reg. 3(3)**(*d*)

Modifications etc. (not altering text)

C91 S. 97A applied (with modifications) (S.) (4.1.1995) by 1994 c. 39, **s. 40(7)**; S.I. 1994/2850, art. 3(a), **Sch. 2**

[[F334]97AA Forgery, etc of seals on recording equipment E+W+S

(1) A person who, with intent to deceive, forges, alters or uses any seal on recording equipment installed in, or designed for installation in, a vehicle to which section 97 of this Act applies, shall be guilty of an offence.

(2) A person guilty of an offence under subsection (1) above shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years, or

(b) on summary conviction, to a fine not exceeding the statutory maximum.

(3) In the application of this section to England and Wales a person "forges" a seal if he makes a false seal in order that it may be used as genuine.**]**

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Textual Amendments

F334 S. 97AA inserted (23.11.1989) by S.I. 1989/2121, arts. 1, **3**

[F335 97B E+W+S

(1) Where recording equipment is installed in a vehicle to which this Part of this Act applies, any record produced by means of the equipment shall, in any proceedings under this Part of this Act, be evidence, and in Scotland sufficient evidence, of matters appearing from the record.

(2) Any entry made on a record sheet by a **[**F336 driver**]** for the purposes of **[**F337 Article 15(2) or (5) or 16(2)**]** of the Community Recording Equipment Regulation shall, in any proceedings under this Part of this Act, be evidence, and in Scotland sufficient evidence, of matters appearing from that entry.**]**

Textual Amendments

F335 Ss. 97, 97A, 97B substituted for s. 97 by S.I. 1979/1746, **reg. 2**

F336 Word substituted by S.I. 1986/1457, **reg. 3(3)**(*e*)

F337 Words substituted by S.I. 1986/1457, **reg. 3(3)**(*e*)

Modifications etc. (not altering text)

C92 S. 97B applied (with modifications) (4.1.1995) by 1994 c. 39, **s. 40(7)** (with s. 7(2)); S.I. 1994/2850, art. 3(a), **Sch. 2**

98 Written records. E+W+S

(1) The Minister may make regulations—

(a) for requiring drivers to keep, and employers of employee-drivers to cause to be kept, in such books as may be specified in the regulations records with respect to such matters relevant to the enforcement of this Part of this Act as may be so specified; and

(b) for requiring owner-drivers and the employers of employee-drivers to maintain such registers as may be so specified with respect to any such books as aforesaid which are in their possession or in that of any employee-drivers in their employment.

(2) Regulations under this section may contain such supplementary and incidental provisions **[**F338 including provisions supplementary and incidental to the requirements of **[**F339 the applicable Community rules**]** as to **[**F340 books, records or documents**]]** as the Minister thinks necessary or expedient, including in particular provisions—

(a) specifying the person or persons from whom books and registers required for the purposes of the regulations **[**F338 or of **[**F339 the applicable Community rules**]]** are to be obtained and, if provision is made for them to be obtained from the Minister, charging a fee for their issue by him (which shall be payable into the Consolidated Fund);

(b) as to the form and manner of making of entries in such books and registers;

(c) as to the issue by and return to the employers of employee-drivers of books required to be kept by the latter for the purposes of the regulations;

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(d) requiring any book in current use for the purposes of the regulations to be carried on, or by the driver of, any vehicle, as to the preservation of any books and registers used for those purposes, and otherwise as to the manner in which those books and registers are to be dealt with;

(e) for exemptions from all or any of the requirements of the regulations in respect of drivers of small goods vehicles as defined in section 103(6) of this Act and for other exemptions from all or any of those requirements.

[F341(2A) The requirements of regulations made under this section shall not apply as respects the driving of a vehicle to which section 97 of this Act applies and in relation to which subsection (1)(b) of that section has come into force.**]**

(3) Subject to the provisions of any regulations made by the Minister, the traffic **[**F342commissioner**]** for any area may dispense with the observance by any employee-driver or his employer, or by any owner-driver, of any requirement imposed under this section, either generally or in such circumstances or to such extent as the **[**F343commissioner thinks**]** fit, but the traffic **[**F342commissioner**]** shall not grant such a dispensation unless satisfied that it is not reasonably practicable for the requirement dispensed with to be observed.

(4) Any person who contravenes any regulations made under this section **[**F344or any requirement as to **[**F340books, records or documents**]** of **[**F339the applicable Community rules**]]** shall be liable on summary conviction to a fine not exceeding **[**F345level 4 on the standard scale**]**, but the employer of an employee-driver shall not be liable to be convicted under this subsection by reason of contravening any such regulation whereby he is required to cause any records to be kept if he proved to the court that he has given proper instructions to his employees with respect to the keeping of the records and has from time to time taken reasonable steps to secure that those instructions are being carried out.

[F346(4A) A person shall not be liable to be convicted under subsection (4) of this section by reason of contravening any regulation made under this section if he proves to the court that, if the vehicle in question had been such a vehicle as is mentioned in subsection (2A) of this section, there would have been no contravention of the provisions of this Part of this Act so far as they relate to the use of such vehicles.**]**

(5) Any entry made by an employee-driver for the purposes of regulations under this section **[**F344or of **[**F339the applicable Community rules**]]** shall, in any proceedings under this Part of this Act, be admissible in evidence against his employer.

Textual Amendments

F338 Words inserted by European Communities Act 1972 (c. 68), **Sch. 4 para. 9(2)(c)**

F339 Words substituted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(c)**

F340 Words substituted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(g)**

F341 S. 98(2A) inserted by S.I. 1979/1746, **reg. 3(1)**

F342 Word substituted by Transport Act 1985 (c. 67, SIF 126), s. 3, **Sch. 2 Pt. II para. 1(3)**

F343 Words substituted by Transport Act 1985 (c. 67, SIF 126), s. 3, **Sch. 2 Pt. II para. 1(3)**

F344 Word inserted by European Communities Act 1972 (c. 68), **Sch. 4 para. 9(2)(a)**

F345 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)

F346 S. 98(4A) inserted by S.I. 1979/1746, **reg. 3(3)**(*b*)

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Modifications etc. (not altering text)

C93 S. 98 applied (with modifications) (S.) (4.1.1995) by 1994 c. 39, **s. 40(7)** (with s. 7(2)); S.I. 1994/2850, art. 3(a), **Sch. 2**

99 Inspection of records and other documents. E+W+S

(1) An officer may, on production if so required of his authority, require any person to produce, and permit him to inspect and copy—

(a) any book or register which that person is required by regulations under section 98 of this Act to carry or have in his possession for the purpose of making in it any entry required by those regulations or which is required under those regulations to be carried on any vehicle of which that person is the driver;

(b) any [F347], book or register which that person is required by regulations under section [F347] 98 of this Act to preserve;

[[F348](bb) any record sheet which that person is required by **[**[F349]Article 14(2)**]** of the Community Recording Equipment Regulation to retain or by **[**[F349]Article 15(7)**]** of that Regulation to be able to produce;**]**

(c) if that person is the owner of a vehicle to which this Part of this Act applies, any other document of that person which the officer may reasonably acquire to inspect for the purpose of ascertaining whether the provisions of this Part of this Act or of regulations made thereunder have been complied with;

[[F350](d) any [F351] book, register or document required by **[**[F352]the applicable Community rules**]** or which the officer may reasonably require to inspect for the purpose of ascertaining whether the requirements of **[**[F352]the applicable Community rules**]** have been complied with**]**;

and that record **[**[F353]sheet**]**, book, register or document shall, if the officer so requires by notice in writing served on that person, be produced at the office of the traffic **[**[F354]commissioner**]** specified in the notice within such time (not being less than ten days) from the service of the notice as may be so specified.

(2) An officer may, on production if so required of his authority—

[[F355](a) at any time, enter any vehicle to which this Part of this Act applies and inspect that vehicle and any recording equipment installed in it and inspect and copy any record sheet on the vehicle on which a record has been produced by means of the equipment or an entry has been made;**]**

(b) at any time which is reasonable having regard to the circumstances of the case, enter any premises on which he has reason to believe that such a vehicle is kept or that any such **[**[F356]record sheets**]**, books, registers or other documents as are mentioned in subsection (1) of this section are to be found, and inspect any such vehicle, and inspect and copy any such record **[**[F357]sheet**]**, book, register or document, which he finds there.

(3) For the purpose of exercising his powers under subsection (2)(a) and, in respect of a document carried on, or by the driver of, a vehicle, under subsection (1)(a) **[**[F358]or (d)**]** of this section, an officer may detain the vehicle in question during such time as is required for the exercise of that power.

(4) Any person who—

(a) fails to comply with any requirement under subsection (1) of this section; or

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(b) obstructs an officer in the exercise of his powers under subsection (2) or (3) of this section,

shall be liable on summary conviction to a fine not exceeding **[**F359level 3 on the standard scale**]**.

[F360(4A) A person shall not be liable to be convicted under subsection (4) of this section by reason of failing to comply with any requirement under subsection (1)(*a*) or (*b*) of this section if he proves to the court that, if the vehicle in question had been such a vehicle as is mentioned in section 98(2A) of this Act, there would have been no contravention of the provisions of this Part of this Act so far as they relate to the use of such vehicles.**]**

(5) Any person who makes, or causes to be made, **[**F361any record or entry on a record sheet kept or carried for the purposes of the Community Recording Equipment Regulation or**]** section 97 of this Act or any entry in a **[**F362book, register or document kept or carried**]** for the purposes of regulations under section 98 thereof **[**F363or **[**F352the applicable Community rules**]]** which he knows to be false or, with intent to deceive, alters or causes to be altered any such record or entry shall be liable—

(a) on summary conviction, to a fine not exceeding £200;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years.

(6) If an officer has reason to believe that an offence under subsection (5) of this section has been committed in respect of any record or document inspected by him under this section, he may seize that record or document; and where a record or document is seized as aforesaid and within six months of the date on which it was seized no person has been charged since that date with an offence in relation to that record or document under that subsection and the record or document has not been returned to the person from whom it was taken, a magistrate's court shall, on an application made for the purpose by that person or by an officer, make such order respecting the disposal of the record or document and award such costs as the justice of the case may require.

(7) Any proceedings in Scotland under subsection (6) of this section shall be taken by way of summary application in the sheriff court; and in the application of that subsection to Scotland references to costs shall be construed as references to expenses.

(8) In this section "officer" means a certifying officer appointed under Part III of the Act of 1960, a public service vehicle examiner, an examiner appointed under **[**F364section 68 of the Road Traffic Act 1988**]** and any person authorised for the purposes of this section by the traffic **[**F365commissioner**]** for any area.

(9) The powers conferred by this section on an officer as defined in subsection (8) of this section shall be exercisable also by a police constable, who shall not, if wearing uniform, be required to produce any authority.

(10) In this section references to the inspection and copying of any record produced by means of equipment installed for the purposes of section 97 of this Act in a vehicle include references to the application to the record of any process for eliciting the information recorded thereby and to taking down the information elicited from it.

Textual Amendments

F347 Words repealed by S.I. 1979/1746, reg. (3)(3)(*a*)

F348 S. 99(1)(*bb*) inserted by S.I. 1979/1746, **reg. 3(3)**(*b*)

F349 Words substituted by S.I. 1986/1457, **reg. 3(3)**(*f*)

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F350 S. 99(1)(d) inserted by European Communities Act 1972 (c. 68), **Sch. 4 para. 9(2)(b)**
F351 Word repealed by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(h)**
F352 Words substituted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(c)**
F353 Word inserted by S.I. 1979/1746, reg. (3)(3)(*c*)
F354 Word substituted by Transport Act 1985 (c. 67, SIF 126), s.3, **Sch. 2 Pt. II para. 1(4)**
F355 S. 99(2)(*a*) substituted by S.I. 1979/1746, **reg. 3(4)**(*a*)
F356 Words substituted by S.I. 1979/1746, **reg. 3(4)**(*b*)
F357 Word inserted by S.I. 1979/1746, **reg. 3(4)**(*b*)
F358 Words inserted by European Communities Act 1972 (c. 68), **Sch. 4 para. 9(2)(b)**
F359 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)
F360 S. 99(4A) inserted by S.I. 1979/1746, **reg. 3(5)**
F361 Words substituted by S.I. 1979/1746, **reg. 3(6)**
F362 Words substituted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(h)**
F363 Words inserted by European Communities Act 1972 (c. 68), **Sch. 4 para. 9(2)(c)**
F364 Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 6(5)**
F365 Word substituted by Transport Act 1985 (c. 67, SIF 126), s. 3, **Sch. Pt. II para. 1(4)**

Modifications etc. (not altering text)
C94 S. 99 amended by Road Traffic (Foreign Vehicles) Act 1972 (c. 27), s. 1, **Sch. 1**

VALID FROM 01/02/2001

[F366 99A Power to prohibit driving of vehicle. E+W+S

(1) If—

(a) the driver of a UK vehicle obstructs an authorised person in the exercise of his powers under subsection (2) or (3) of section 99 of this Act or fails to comply with any requirement made by an authorised person under subsection (1) of that section,

(b) it appears to an authorised person that, in relation to a UK vehicle or its driver, there has been a contravention of any of the provisions of—

(i) sections 96 to 98 of this Act and any orders or regulations under those sections, or

(ii) the applicable Community rules,

or that there will be such a contravention if the vehicle is driven on a road, or

(c) it appears to an authorised person that an offence under section 99(5) of this Act has been committed in respect of a UK vehicle or its driver,

the authorised person may prohibit the driving of the vehicle on a road either for a specified period or without limitation of time.

(2) Where an authorised person prohibits the driving of a vehicle under this section, he may also direct the driver to remove the vehicle (and, if it is a motor vehicle drawing a trailer, also to remove the trailer) to such place and subject to such conditions as are specified in the direction; and the prohibition shall not apply to the removal of the vehicle in accordance with that direction.

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(3) On imposing a prohibition under subsection (1) of this section, the authorised person shall give notice in writing of the prohibition to the driver of the vehicle, specifying the circumstances (as mentioned in paragraph (a), (b) or (c) of that subsection) in consequence of which the prohibition is imposed and stating whether it is imposed only for a specified period (and if so specifying the period) or without limitation of time.

(4) Any direction under subsection (2) of this section may be given—

(a) in the notice under subsection (3) of this section, or

(b) in a separate notice in writing given to the driver of the vehicle.

(5) In this section—

"authorised person" means—

(a) an examiner appointed by the Secretary of State under section 66A of the [M30]Road Traffic Act 1988, or

(b) a constable authorised to act for the purposes of this section by or on behalf of a chief officer of police;

"UK vehicle" means a vehicle registered under the [M31]Vehicle Excise and Registration Act 1994.**]**

Textual Amendments

F366 Ss. 99A-99C inserted (1.2.2001) by 2000 c. 38, **s. 266**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M30 1988 c. 52.

M31 1994 c. 22.

VALID FROM 01/02/2001

[F367]99B Duration and removal of prohibition. E+W+S

(1) Subject to any exemption granted under subsection (2) of this section, a prohibition under subsection (1) of section 99A of this Act shall come into force as soon as notice of it has been given in accordance with subsection (3) of that section and shall continue in force—

(a) until it is removed under subsection (3) of this section, or

(b) in the case of a prohibition imposed for a specified period, until it is removed under that subsection or that period expires, whichever first occurs.

(2) Where notice of a prohibition has been given under section 99A(3) of this Act in respect of a vehicle, an exemption in writing for the use of the vehicle in such manner, subject to such conditions and for such purposes as may be specified in the exemption may be granted by any authorised person.

(3) A prohibition under section 99A(1) of this Act may be removed by any authorised person, if he is satisfied that appropriate action has been taken to remove or remedy the circumstances (as mentioned in paragraph (a), (b) or (c) of section 99A(1) of

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this Act) in consequence of which the prohibition was imposed; and on doing so the authorised person shall give notice in writing of the removal of the prohibition to the driver of the vehicle.

(4) In this section, "authorised person" has the same meaning as in section 99A of this Act.

Textual Amendments

F367 Ss. 99A-99C inserted (1.2.2001) by 2000 c. 38, **s. 266**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

VALID FROM 01/02/2001

F368 99C Failure to comply with prohibition. E+W+S

Any person who—

(a) drives a vehicle on a road in contravention of a prohibition imposed under section 99A(1) of this Act,

(b) causes or permits a vehicle to be driven on a road in contravention of such a prohibition, or

(c) refuses or fails to comply within a reasonable time with a direction given under section 99A(2) of this Act,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Textual Amendments

F368 Ss. 99A-99C inserted (1.2.2001) by 2000 c. 38, **s. 266**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

100 Power to give effect to international agreements. U.K.

(1) The Minister may by order make, in relation to Great Britain, such provision as appears to him to be requisite for enabling the United Kingdom to become a party to any international agreement relating to the drivers or crews of vehicles used on international journeys, and, without prejudice to the generality of the foregoing provisions of this subsection, an order under this subsection may—

(a) modify or exclude any of the provisions contained in or having effect under this Part of this Act or contained in or having effect under any other enactment passed before or after this Act;

(b) provide for exemptions from all or any of the provisions of the order;

(c) provide for the punishment of contraventions of any provision of the order;

(d) contain such supplementary, incidental or consequential provisions as appear to the Minister to be necessary or expedient.

(2) The Governor of Northern Ireland may, by Order in the Privy Council of Northern Ireland, make provision in relation to Northern Ireland for any purpose for which

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provision may be made in relation to Great Britain under subsection (1) of this section, and in relation to any such Order the provisions of that subsection shall apply accordingly as if for references to the Minister there were substituted references to the Governor of Northern Ireland; and any such Order may authorise the Ministry of Home Affairs for Northern Ireland to make regulations for any of the purposes of the Order.

Modifications etc. (not altering text)

C95 Reference to the making of an Order in Council by the Governor of Northern Ireland to be construed as a reference to the making of an order by the Secretary of State: Northern Ireland Constitution Act 1973 (c. 36, SIF 29:3), **Sch. 5 para. 4(2)**

C96 Functions of Privy Council of Northern Ireland transferred to Secretary of State: S.I. 1973/2163, **arts. 1(4)**, 2(5)

C97 Functions of Ministry of Home Affairs for Northern Ireland transferred to Department of Finance and Personel for Northern Ireland: S.R. & O. 1973/504 and S.I.1982/338 (N.I.6), **art. 3**

C98 S. 100 applied (with modifications) (S.) (4.1.1995) by 1994 c. 39, **s. 40(7)** (with s. 7(2)); S.I. 1994/2850, art. 3(a), **Sch. 2**

101 Orders and regulations under Part VI. U.K.

(1) In relation to orders or regulations made under this Part of this Act, the provisions of this section shall have effect in addition to the provisions of section 157 of this Act.

(2) Any order or regulations under this Part of this Act may make different provision for different classes of case.

(3) No order shall be made under section 96(12) or 100(1) of this Act unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament; and any regulations made under this Part of this Act (except regulations made **[**[F369]under section 95(1) or**]** by virtue of an Order under section 100(2)) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[[F370](3A) No regulations shall be made under section 95(1) of this Act unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.**]**

(4) No recommendation shall be made to the Governor of Northern Ireland in Council to make an Order under subsection (2) of section 100 of this Act unless a draft thereof has been laid before the Parliament of Northern Ireland and has been approved by resolution of each House of Parliament of Northern Ireland; and an Order under that subsection which authorises the making of regulations may make provision for the laying of such regulations before the Parliament of Northern Ireland and for their annulment in such circumstances as may be specified in the Order.

(5) A definition or description of a class of vehicles for the purposes of any order or regulation under this Part of this Act may be framed by reference to any characteristic of the vehicles or to any other circumstances whatsoever.

(6) Before making any order or regulations under this Part of this Act the Minister shall consult with such representative organisations as he thinks fit.

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Textual Amendments

F369 Words inserted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(i)**

F370 S. 101(3A) inserted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(i)**

Modifications etc. (not altering text)

C99 Reference to the making of an Order in Council by the Governor of Northern Ireland to be construed as a reference to the making of an order by the Secretary of State: Northern Ireland Constitution Act 1973 (c. 36, SIF 29:3), **Sch. 5 para. 4(2)**

C100 Reference to the Parliament of Northern Ireland and to each House of Parliament of Northern Ireland to be construed as a reference to the Northern Ireland Assembly: Northern Ireland Constitution Act 1973 (c. 36, SIF 29:3), **Sch. 5 para. 3**

C101 S. 101 applied (with modifications) (S.) (4.1.1995) by 1994 c. 39, **s. 40(7)** (with s. 7(2)); S.I. 1994/2850, art. 3(a), **Sch. 2**

102 Application to the Crown and exemption for police and fire brigade. E+W+S

(1) Subject to subsection (2) of this section, this Part of this Act shall apply to vehicles and persons in the public service of the Crown.

(2) This Part of this Act shall not apply in the case of motor vehicles owned by the Secretary of State for Defence and used for naval, military or air force purposes or in the case of vehicles so used while being driven by persons for the time being subject to the orders of a member of the armed forces of the Crown.

[F371(3) Where an offence under this Part of this Act is alleged to have been committed in connection with a vehicle in the public service of the Crown, proceedings may be brought in respect of the offence against a person nominated for the purpose on behalf of the Crown; and, subject to subsection (3A) below, where any such offence is committed any person so nominated shall also be guilty of the offence as well as any person actually responsible for the offence (but without prejudice to proceedings against any person so responsible).

(3A) Where a person is convicted of an offence by virtue of subsection (3) above—

(a) no order may be made on his conviction save an order imposing a fine,

(b) payment of any fine imposed on him in respect of that offence may not be enforced against him, and

(c) apart from the imposition of any such fine, the conviction shall be disregarded for all purposes other than any appeal (whether by way of case stated or otherwise).**]**

(4) This Part of this Act shall not apply in the case of motor vehicles while being used for police or fire brigade purposes.

Textual Amendments

F371 S. 102(3)(3A) as substituted by Transport Act 1982 (c. 49, SIF 126), **s. 64** fell upon the repeal of that Act by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 3, **Sch. 1** (with Sch. 4 paras. 1–3) and the new s. 102(3)(3A) was substituted for s. 102 by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 6(6)** for section 102(3)

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Modifications etc. (not altering text)

C102 S. 102 applied (with modifications) (S.) (4.1.1995) by 1994 c. 39, **s. 40(7)** (with s. 7(2)); S.I. 1994/2850, art. 3(a), **Sch. 2**

[F372 102A Exclusion of application to tramcars and trolley vehicles. E+W+S

(1) This Part of this Act and section 255 of the Road Traffic Act 1960 in its application thereto shall not apply to tramcars or trolley vehicles operated under statutory powers.

(2) In this section "operated under statutory powers" means, in relation to tramcars or trolley vehicles, that their use is authorised or regulated by special Act of Parliament or by an order having the force of an Act.

(3) Subsection (1) above shall have effect subject to any such Act or order as is mentioned in subsection (2) above, and any such Act or order may apply to tramcars or trolley vehicles to which it relates any of the provisions excluded by the said subsection (1).**]**

Textual Amendments

F372 S. 102A was inserted by Road Traffic Act 1972 and fell upon the repeal of that 1972 Act by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 3, **Sch. 1** (with Sch. 4, paras. 1–3); the text of s. 102A appearing here inserted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 6(7)**

103 Interpretation, supplementary provisions, etc., for Part VI. E+W+S

(1) In this Part of this Act—

"agriculture" has the meaning assigned by section 109(3) of the M32 Agriculture Act 1947 or, in relation to Scotland, section 86(3) of the M33 Agriculture (Scotland) Act 1948;

[F373 "the Community Recording Equipment Regulation" has the same meaning given by section 97(7) of this Act;**]**

"driver", "employee-driver" and "owner-driver" have the meaning assigned by section 95(3) of this Act;

"employer", in relation to an employee-driver, means the employer of that driver in the employment by virtue of which that driver is an employee-driver;

[F374 "the applicable Community rules" means any directly applicable Community provision for the time being in force about the driving of road vehicles**]**

[F375 "the domestic drivers' hours code" has the meaning given by section 96(13) of this Act**]**

F376 "prescribed" means prescribed by regulations made by the Minister;

[F377 "recording equipment" has the meaning given by section 97(7) of this Act;

"record sheet" includes a temporary sheet attached to a record sheet in accordance with **[**F378 Article 16(2)**]** of the Community Recording Equipment Regulation;**]**

[F375 "relevant Community provision" means any Community provision for the time being in force about the driving of road vehicles, whether directly applicable or not**]**

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"working day", in relation to any driver, means—

(a) any period during which he is on duty and which does not fall to be aggregated with any other such period by virtue of paragraph (b) of this definition; and

(b) where a period during which he is on duty is not followed by an interval for rest of not less than eleven hours or (where permitted by virtue of section 96(4)(b) of this Act) of not less than nine and a half hours, the aggregate of that period and each successive such period until there is such an interval as aforesaid, together with any interval or intervals between periods so aggregated;

[F379"working week" means, subject to subsection (5) of this section, a week beginning at midnight between Sunday and Monday:**]**

and any expression not defined above which is also used in the Act of 1960 has the same meaning as in that Act.

(2) For the purposes of this Part of this Act a director of a company shall be deemed to be employed by it.

(3) In this Part of this Act references to a person driving a vehicle are references to his being at the driving controls of the vehicle for the purpose of controlling its movements, whether it is in motion or is stationary with the engine running.

(4) In this Part of this Act references to a driver being on duty are references—

(a) in the case of an employee-driver, to his being on duty (whether for the purpose of driving a vehicle to which this Part of this Act applies or for other purposes) in the employment by virtue of which he is an employee-driver, or in any other employment under the person who is his employer in the first-mentioned employment; and

(b) in the case of an owner-driver, to his driving a vehicle to which this Part of this Act applies for the purposes of a trade or business carried on by him or being otherwise engaged in work for the purposes of that trade or business, being work in connection with such a vehicle or the load carried thereby.

(5) The traffic **[**F380commissioner**]** for any area may, on the application of an owner-driver or of the employer of an employee-driver, from time to time direct that a week beginning at midnight between two days other than **[**F381Sunday and Monday**]** shall be, or be deemed to have been, a working week in relation to that owner-driver or employee-driver; but where by virtue of any such direction a new working week begins before the expiration of a previous working week then, without prejudice to the application of the provisions of this Part of this Act in relation to the new working week, those provisions shall continue to apply in relation to the previous working week until its expiration.

(6) In **[**F382section**]** 98(2)(e) of this Act "a small goods vehicle" means a goods vehicle which has a plated weight of the prescribed description not exceeding **[**F3833500 kilograms**]** or (not having a plated weight) has an unladen weight not exceeding **[**F3831525 kilograms**]**; but the Minister may by regulations direct that the foregoing provisions of this subsection shall have effect, in relation to either or both of those sections—

(a) with the substitution for either of the weights there specified of such other weight as may be specified in the regulations;

(b) with the substitution for either of those weights or for any other weight for the time being specified as aforesaid of a weight expressed in terms of the metric system, being a weight which is equivalent to that for which it is substituted or does not differ from it by more than five per cent. thereof.

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[F384(7) An offence under this Part of this Act may be treated for the purpose of conferring jurisdiction on a court (but without prejudice to any jurisdiction it may have apart from this subsection) as having been committed in any of the following places, that is to say—

(a) the place where the person charged with the offence was driving when evidence of the offence first came to the attention of a constable or vehicle examiner;

(b) the place where that person resides or is or is believed to reside or be at the time when the proceedings are commenced: or

(c) the place where at that time that person or, in the case of an employee-driver, that person's employer or, in the case of an owner-driver, the person for whom he was driving, has his place or principal place of business or his operating centre for the vehicle in question.

In this subsection "vehicle examiner" means an officer within the meaning of section 99 of this Act.**]**

(8) The enactments specified in Schedule 11 to this Act shall have effect subject to the amendments there specified.

(9) Any order made under section 166(2) of this Act appointing a day for the purposes of any of the provisions of this Part of this Act may contain such transitional provision as the Minister thinks necessary or expedient as respects the application of any particular provision of this Part of this Act to a working week or working day falling partly before and partly after the date on which that provision comes into operation.

Textual Amendments

F373 Definition inserted by S.I. 1979/1746, **reg. 3(7)**(*a*)
F374 Words substituted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(a)**
F375 Definitions inserted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(b)**
F376 Definition repealed by Transport Act 1985 (c. 67, SIF 126), s. 139(3), **Sch. 8**
F377 Definitions inserted by S.I. 1979/1746, **reg. 3(7)**(*b*)
F378 Words substituted by S.I. 1986/1457, **reg. 3(3)**(*g*)
F379 Definition substituted by S.I. 1986/1458, **art. 3(1)**
F380 Word substituted by Transport Act 1985 (c. 67, SIF 126), s. 3, **Sch. 2 Pt II para. 1(5)**
F381 Words substituted by S.I. 1986/1458, **art. 3(2)**
F382 Word substituted by S.I. 1979/1746, **reg. 3(8)**
F383 Words substituted by S.I. 1981/1373, **Sch. Pt. III**B
F384 S. 103(7) substituted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 3**

Modifications etc. (not altering text)

C103 S. 103 applied (with modifications) (S.) (4.1.1995) by 1994 c. 39, **s. 40(7)** (with s. 7(2)); S.I. 1994/2850, art. 3(a), **Sch. 2**
C104 The text of s. 103(8), 161(4), 162(5), Sch. 16, paras. 8(1)(3), 9, 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M32 1947 c. 48.
M33 1948 c. 45.

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PART VII U.K.

INLAND WATERWAYS

The Board's waterways

104 Classification of the Board's waterways. U.K.

(1) For the purposes of sections 105 to 111 of this Act the inland waterways comprised in the undertaking of the Waterways Board shall be divided into—

(a) the waterways for the time being specified in Part I of Schedule 12 to this Act, being waterways (in this Part of this Act referred to as "the commercial waterways") to be principally available for the commercial carriage of freight;

(b) the waterways for the time being specified in Part II of that Schedule, being waterways (in this Part of this Act referred to as "the cruising waterways") to be principally available for cruising, fishing and other recreational purposes; and

(c) the remainder.

(2) The description contained in the said Schedule 12 of any waterway shall be read subject to any order made by the Minister for giving greater precision to that description by reference to a map.

(3) The Minister may by order transfer any waterway from one Part of the said Schedule 12 to the other Part, remove any waterway from either of those Parts or add to either of those Parts any inland waterway for the time being comprised in the undertaking of the Board which is not for the time being a commercial waterway or a cruising waterway.

(4) Schedule 13 to this Act shall have effect in relation to the making of any order under subsection (3) of this section, and any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) In subsection (3) of this section references to any waterway include references to any part of that waterway.

Modifications etc. (not altering text)
C105 S. 104 applied (with modifications) (S.) (4.1.1995) by 1994 c. 39, **s. 40(7)** (with s. 7(2)); S.I. 1994/2850, art. 3(a), **Sch. 2**

105 Maintenance of the Board's waterways. U.K.

(1) With a view to securing the general availability of the commercial and cruising waterways for public use, it shall be the duty of the Waterways Board, subject to the provisions of this section—

(a) to maintain the commercial waterways in a suitable condition for use by commercial freight-carrying vessels; and

(b) to maintain the cruising waterways in a suitable condition for use by cruising craft, that is to say, vessels constructed or adapted for the carriage of passengers and driven by mechanical power.

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(2) Neither paragraph (a) nor paragraph (b) of subsection (1) of this section shall impose on the Board any duty to maintain a waterway, or any part of a waterway, in a suitable condition for use by any vessel of the kind mentioned in that paragraph unless the dimensions of the vessel (that it to say, its length, width, height of superstructure and draught)—

(a) correspond to, or are less than, those of a vessel of that kind which customarily used that waterway or part during the period of nine months ending with 8th December 1967; or

(b) if the waterway or part has been restored or improved since that date, are such as to make it suitable for use on that waterway or part;

but, save as aforesaid, the duty imposed by that paragraph shall extend to any vessel of the kind therein mentioned as respects the dimensions of which paragraph (a) or (b) of this subsection is satisfied.

(3) If it appears to the Minister that, having regard to any change in the size, design or type of vessel customarily using any commercial waterway or cruising waterway, or any part thereof, it is desirable to exercise his powers under this subsection, he may (after consultation with the Board) by order substitute for the duty imposed on the Board by the foregoing provisions of this section in respect of that waterway or part such duty in respect of the maintenance thereof as he considers appropriate having regard to that change, and may by that order make such incidental or transitional provision as he thinks necessary or expedient in connection therewith.

(4) Schedule 13 to this Act shall have effect in relation to the making of any order under subsection (3) of this section, and any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Section 17 of the [M34]Regulation of Railways Act 1873 (which requires the Board to maintain certain inland waterways) shall cease to apply to any inland waterway which on the date on which this section comes into force is comprised in the undertaking of the Board; and any local enactment passed with respect to any such inland waterway, so far as that enactment—

(a) confers any public or private right of navigation over the waterway; or

(b) imposes any duty to maintain that waterway for the purpose of navigation (including any duty to supply, or maintain a supply of, water for the waterway for that purpose),

shall cease to have effect.

(6) If the Board acquire any inland waterway after the date on which this section comes into force any local enactment passed with respect thereto shall, so far as it confers or imposes any such right or duty as is mentioned in paragraph (a) or (b) of subsection (5) of this section, cease to have effect on the date on which the waterway is so acquired.

(7) Any person who suffers loss by reason of the extinguishment by virtue of subsection (5) or (6) of this section of any private right shall be entitled to be paid by the Board compensation to be determined, in case of dispute, by the appropriate tribunal; and the tribunal shall, in determining the compensation, take into account any contractual right offered by the Board in substitution for the right which is extinguished.

(8) Where by virtue of subsection (5) of this section a statutory right of navigation ceases to be exercisable as respects a waterway of which the Waterways Board are not the

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owner, the Board shall have power to authorise any use of the waterway which would have been authorised by that statutory right.

Modifications etc. (not altering text)

C106 S. 105 applied (with modifications) (S.) (4.1.1995) by 1994 c. 39, **s. 40(7)** (with s. 7(2)); S.I. 1994/2850, art. 3(a), **Sch. 2**

C107 S. 105(3) modified (1.6.1993) by S.I. 1993/1119, reg. 4(1)(a), **Sch. 1 para.1**

Marginal Citations

M34 1873 c. 48.

106 Enforcement of maintenance duty. U.K.

(1) If, on an application by any person under this section to the High Court or, in Scotland, the Court of Session, the court determines that there has been, in respect of any waterway, a serious and persistent failure by the Waterways Board to discharge the duty imposed on them by—

(a) subsection (1) of section 105 of this Act; or

(b) any order made under subsection (3) of that section,

the court may, subject to the provisions of this section, require the Board to remedy that failure; but, save as aforesaid, neither the said subsection (1) nor any order under the said subsection (3) shall be construed as imposing any duty or liability enforceable by proceedings before any court to which the Board would not otherwise be subject.

(2) The fact that proceedings on an application under subsection (1) of this section (hereafter in this section referred to as "enforcement proceedings") are in progress in respect of any waterway or any part of a waterway, or that the court has in any such proceedings imposed any requirement on the Board, shall not prevent the Minister from making an order in respect of that waterway or part under section 104(3) or 105(3) of this Act; but—

(a) except as provided in subsection (3) of this section, where such an order is made while enforcement proceedings are in progress, the court shall nevertheless determine those proceedings on the basis of the duty of the Board as it stood when the proceedings were instituted; and

(b) the making of such an order shall in no case absolve the Board from complying with any requirement which is imposed by the court in any enforcement proceedings.

(3) If a relevant order is pending at the time when enforcement proceedings are instituted, or if, at any time after enforcement proceedings have been instituted and before the court has imposed any requirement on the Board in the proceedings, the Minister notifies the Board that he is considering the making of a relevant order and gives the court such a certificate as is mentioned in subsection (4) of this section—

(a) the court shall not, so long as the order is pending, impose any requirement on the Board in those proceedings; and

(b) if the order is made, the court shall, in determining in those proceedings whether there has been a failure by the Board to discharge their duty, have regard only to the duty (if any) to which the Board are subject in consequence of the making of the order.

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(4) The said certificate is a certificate in writing to the effect that it appears to the Minister that the imposition of any requirement on the Board on the basis of their existing duty would result in their incurring substantial expense and that, having regard to their financial position and their duty under section 18 of the Act of 1962 and section 41 of this Act, it would be unreasonable for them to bear that expense without a grant or further grant under section 43 of this Act.

(5) In subsection (3) of this section "relevant order" means, in relation to any enforcement proceedings, an order under section 104(3) or 105(3) of this Act in relation to the waterway or part of a waterway which is the subject of the proceedings; and for the purposes of that subsection an order is pending during the period of three months beginning with the day on which the Minister notifies the Board that he is considering the making of the order and, if before the expiration of that period notice of the proposed order is published under Schedule 13 to this Act, during any further period until the order is made or the Minister notifies the Board that it will not be made.

(6) As soon as may be after giving the Board any such notification as is mentioned in the last foregoing subsection, the Minister shall give notice thereof in the London Gazette or, if the waterway or the part of the waterway in question is situated in Scotland, the Edinburgh Gazette.

(7) For the purposes of this section enforcement proceedings shall be treated as instituted at the time when the writ or summons beginning the proceedings is served on the Board.

Modifications etc. (not altering text)
C108 S. 106(2) applied (with modifications) (S.) (4.1.1995) by 1994 c. 39, **s. 40(7)** (with s. 7(2)); S.I. 1994/2850, art. 3(a), **Sch. 2**

107 Amendments as to general duties of Board. U.K.

(1) The duty of the Waterways Board under subsection (1) of section 10 of the Act of 1962 to provide services and facilities on the inland waterways owned or managed by them shall extend only to the commercial waterways and cruising waterways.

(2) It shall be the duty of the Board—

(a) to secure that each of the inland waterways comprised in their undertaking which is not a commercial waterway or cruising waterway is dealt with in the most economical manner possible (consistent, in the case of a waterway which is retained, with the requirements of public health and the preservation of amenity and safety), whether by retaining and managing the waterway, by developing or eliminating it, or by disposing of it; and

(b) to secure that the best possible financial return is obtained from any asset of the Board which is not an inland waterway or harbour and is not required in connection with the provision of services and facilities by the Board, whether by exploiting it, by developing it, or by disposing of it.

(3) Subsection (4) of the said section 10 (which provides that the duties of the Board under that section are not to be legally enforceable) shall apply also to the duty imposed on the Board by subsection (2) of this section.

(4[F385]

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Textual Amendments

F385 Ss. 107(4), 112(7) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

108 Prevention of nuisance as respects certain waterways. E+W+S

(1) Subject to subsection (3) of this section, any inland waterway in England or Wales comprised in the undertaking of the Waterways Board which is not a commercial waterway or cruising waterway shall be deemed to be—

(a) a watercourse for the purposes of section 259 of the [M35]Public Health Act 1936; and

[[F386](b) land to which section 215 of the Town and Country Planning Act 1990 applies;**]**

and the provisions of Part III of the **[**[F387]Environmental Protection Act 1990**]**, as they apply by virtue of this subsection, may be enforced by a county council as well as by a local authority as defined in that Act, and any local authority within the meaning of **[**[F388]the said Act of 1990**]** (and not only the local planning authority) shall be entitled to enforce the provisions of **[**[F388]the said section 215**]** as it applies by virtue of this subsection.

(2) Subject to subsection (3) of this section, any inland waterway in Scotland comprised in the undertaking of the Board which is not a commercial waterway or cruising waterway shall be deemed to be—

(a) a watercourse for the purpose of section 16 of the [M36]Public Health (Scotland) Act 1897; and

(b) derelict land for the purposes of **[**[F389]section 63 of the [M37]Town and Country Planning (Scotland) Act 1972**]**;

and any local authority within the meaning of **[**[F389]the said Act of 1972**]** (and not only the local planning authority) shall be entitled to enforce the provisions of **[**[F389]the said section 63**]** as it applies by virtue of this subsection.

(3) This section shall not apply to any waterway which has been closed to navigation under any local enactment before the date on which this section comes into force if the use of the waterway has been changed between the passing of that enactment and that date in pursuance of planning permission granted under **[**[F390]Part III of the Town and Country Planning Act 1962 or**]** Part II of **[**[F389]the [M38]Town and Country Planning (Scotland) Act 1947**]**; and this section shall cease to apply to any waterway if the use thereof is changed after that date in pursuance of such permission as aforesaid.

(4) This section shall have effect to the exclusion of any provision for similar purposes in any local enactment passed before the date on which this section comes into force in relation to any waterway to which this section applies.

Textual Amendments

F386 S. 108(1)(*b*) substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 22(2)(a)**

F387 Words substituted by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(1), **Sch. 15 para. 10(3)**

F388 Words substituted by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 22(2)(a)**

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F389 Words substituted by Town and Country Planning (Scotland) Act 1972 (c. 52), **Sch. 21 Pt. II**
F390 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 22(2)(b)**

Marginal Citations
M35 1936 c. 49.
M36 1897 c. 38.
M37 1972 c. 52.
M38 1947 c. 53.

109 Power of certain bodies to maintain or take over waterways and connected works. E+W+S

(1) Without prejudice to their powers apart from this section, but subject to subsection (3) of this section, the Waterways Board shall have power—

(a) to enter into an agreement with any body to which this section applies for the maintenance by that body of any inland waterway comprised in the undertaking of the Board which is not a commercial waterway or cruising waterway, or of any part of, or of any works connected with, any such waterway;

(b) by agreement with any such body, to transfer to it any such waterway, part of a waterway or works as aforesaid belonging to the Board, together with any powers or obligations (whether statutory or otherwise) of the Board in respect thereof;

and any body to which this section applies shall have all such powers as are required to enable it to enter into and carry out any such agreement as aforesaid or as are required to be exercised by it in consequence of any such transfer as is mentioned in this subsection.

(2) The bodies to which this section applies are as follows—

(a) a local authority;

[[X1](b) a **[**[F391]water authority**]**;**]**

[[F392](b) the National Rivers Authority**]**

(c) a highway authority, not being a local authority;

[[F393](d) a public gas supplier within the meaning of Part I of the Gas Act 1986;**]**

[[F394](e) a public electricity supplier within the meaning of Part I of the Electricity Act 1989;**]**

[[X2](h) any statutory water undertakers as defined in section 59(1) of the [M39]Water Act 1945 otherwise than for the purposes of Part II of that Act only;**]**

[[F395](h) a water undertaker;**]**

(j) a **[**[F396]water authority**]**;

(k) a water development board,

and, as respects any particular agreement or transfer, any other body having public or charitable objects which is certified by the Minister as a body appearing to him to be capable of discharing the responsibilities falling on the body in consequence of that agreement or transfer.

(3) Subject to subsection (5) of this section, no such agreement or transfer as is mentioned in subsection (1) of this section shall be made with or to—

(a) any local authority unless what is to be maintained or transferred—

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(i) is situated in the area of the authority; or

(ii) though not situated in that area, is so situated that persons residing in that area have convenient access to it;

[X3(b) any **[**F391water authority**]** unless—

(i) what is to be maintained or transferred is situated in the area of the authority; and

(ii) the Ministers (as defined in section 82(9) of the M40Water Resources Act 1963) have consented to the agreement or transfer;**]**

[F397(b) the National Rivers Authority unless the Ministers (as defined in section 82(9) of the Water Resources Act 1963) have consented to the agreement or transfer;**]**

[F398and the powers under this section of any statutory water undertakers or of any **[**F396water authority**]** or water development board shall be exercisable only for the purposes of their water undertaking and with the consent of **[**F399the Secretary of State**]** and Local Government or, as respects anything to be done in Scotland or in Wales, the Secretary of State.**]**

(4) Any agreement under this section whereby a waterway or part of a waterway is to be maintained by, or transferred to, a body to which this section applies may include provision for securing that the body in question makes the waterway or part available for public use.

(5) The Board may make an agreement for maintenance or transfer under this section with two or more bodies jointly on such terms as to the sharing of expenses between those bodies and otherwise as those bodies may agree; and, notwithstanding subsection (3)(a)(i) **[**F398or (*b*)(i)**]** of this section (but without prejudice, **[**F398in the case of a local authority,**]** to subsection (3)(a)(ii) of this section), a local **[**F400authority or **[**F391water authority**]** may**][**F400authority may**]** be a party to such an agreement if part of what is to be maintained or transferred is situated in their area and the remainder in the area or areas of one or more other **[**F401authorities (whether local authorities or **[**F391water authorities**]**) who**][**F401authorities who**]** are also parties to the agreement.

Editorial Information

X1 S. 109(2)(*b*) commencing "the National" substituted (E.W.) for s. 109(2)(*b*) commencing "a water" by Water Act 1989 (c.15, SIF 130), s. 190(1), Sch. 25, para. 38(1)(a)(i) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(90), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**)

X2 S. 109(2)(h) commencing "a water" substituted (E.W.) for s. 109(2)(h) commencing "any statutory" by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25**, para. 38(1)(a)(ii) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

X3 S. 109(3)(b) commencing "the National" substituted (E.W.) for s. 109(3)(*b*) commencing "any water" by Water Act 1989 (c.15, SIF 130), s. 190(1), Sch. 25 para. 38(1)(b) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**)

Textual Amendments

F391 Words substituted by virtue of Water Act 1973 (c. 37), **s. 9(a)**

F392 S. 109(2)(*b*) commencing "the National" substituted (E.W.) for s. 109(2)(*b*) commencing "a water" by Water Act 1989 (c.15, SIF 130), s. 190(1), Sch. 25, para. 38(1)(a)(i) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(90), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**)

F393 S. 109(2)(*d*) substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1), **Sch. 7 para. 9**

F394 S. 109(2)(*e*) substituted for paragraphs (*e*), (*f*) and (*g*) by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 14 (with Sch. 17 paras. 33, **35(1)**)

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F395 S. 109(2)(h) commencing "a water" substituted (E.W.) for s. 109(2)(h) commencing "any statutory" by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25**, para. 38(1)(a)(ii) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

F396 Words substituted by virtue of Local Government (Scotland) Act 1973 (c. 65), **Sch. 17 para. 1**

F397 S. 109(3)(b) commencing "the National" substituted (E.W.) for s. 109(3)(*b*) commencing "any water" by Water Act 1989 (c.15, SIF 130), s. 190(1), Sch. 25 para. 38(1)(b) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**)

F398 Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190(3), **Sch. 27 Part I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)

F399 Words substituted by virtue of S.I. 1970/1681 arts. 2, 6(3)

F400 Words "authority may" substituted (E.W.) for words commencing "authority or" by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 38(1)(c)(i)(ii)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(4), 57(6), 58)

F401 Words "authorities who" substituted (E.W.) for words commencing "authorities (whether" by Water Act 1989 (c. 15, SIF 130), s. 190(1), Sch. 25 para. 38(1)(c)(i)(ii) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(4), 57(6), **58**)

Marginal Citations

M39 1945 c. 42.

M40 1963 c. 38.

110 The Inland Waterways Amenity Advisory Council. U.K.

(1) There shall be a body to be known as the Inland Waterways Amenity Advisory Council consisting of a chairman and not less than twelve members appointed by the Minister after consultation with the chairman of the Waterways Board; and the members so appointed—

(a) shall include persons who appear to the Minister to have wide knowledge of, and interest in, the use of inland waterways for amenity or recreational purposes, including fishing; and

(b) may include not more than four persons who are members of the Waterways Board.

(2) In addition to their functions under Schedule 13 to this Act, it shall be the function of the Council—

(a) to advise the Waterways Board and the Minister on any proposal to add to or reduce the cruising waterways;

(b) to consider, and, where it appears to them to be desirable, to make recommendations to the Waterways Board or the Minister with respect to, any other matter—

(i) affecting the use or development for amenity or recreational purposes, including fishing, of the cruising waterways;

(ii) with respect to the provision for those purposes of services or facilities in connection with those waterways or the commercial waterways,

being a matter which has been referred to the Council by the Board or the Minister, which has been the subject of representations to the Council by any other person or which appears to the Council to be a matter to which consideration ought to be given.

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(3) The Council shall not make recommendations to the Minister with respect to any matter under this section without first consulting with the Board about that matter.

(4) The persons appointed to be members of the Council shall hold and vacate office in accordance with their terms of appointment and shall, on ceasing to hold office, be eligible for reappointment; but any such person may at any time by notice in writing to the Minister resign his office.

(5) The Council may, with the approval of the Minister, appoint such regional committees, and may appoint such other committees, as they think fit; and the procedure of the Council and of any such committee, including the quorum at meetings, shall be such as may be determined by the Council.

(6) The Waterways Board shall provide the Council with such officers and servants and such accommodation as appear to the Board to be requisite for the proper discharge of the Council's functions or as may be directed by the Minister; and the said Board may pay to the members of the Council allowances in respect of loss of remunerative time in accordance with a scale approved by the Minister with the consent of the Treasury and such travelling allowances and allowances in respect of out-of-pocket expenses as the Board may determine.

[[F402](7) The Secretary of State may, with the consent of the Treasury, pay the chairman of the Council out of money provided by Parliament such remuneration as the Secretary of State may determine; and where the chairman is in receipt of such remuneration he shall not be paid any allowance under subsection (6) of this section in respect of loss of remunerative time.**]**

Textual Amendments

F402 S. 110(7) inserted by Environmental Protection Act 1990 (c. 43, SIF 46:4), **s. 155**

111 Access agreements and orders as respects canals other than commercial waterways and cruising waterways. E+W+S

Subsections (2) and (3) of section 16 of the [M41]Countryside Act 1968 (which enable access agreements and access orders to be made under Part V of the National Parks and Access to the [M42]Countryside Act 1949 in respect of canals and of certain land held therewith) shall apply as respects, and as respects land held with, any canal or part of a canal owned or managed by the Waterways Board which is not for the time being a commercial waterway or a cruising waterway; and accordingly in subsection (6)(c) of that section (which prevents the said subsections (2) and (3) from applying where the canal or part of a canal is owned or managed by the Board) there shall be added at the end the words " which is for the time being a commercial waterway of a cruising waterway within the meaning of section 104 of the Transport Act 1968 ".

Marginal Citations

M41 1968 c. 41.
M42 1949 c. 97.

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Other inland waterway provisions

112 Power to extinguish statutory rights and obligations in respect of canals not comprised in undertaking of Board. E+W+S

(1) In the case of any canal which is not comprised in the undertaking of the Waterways Board, the Minister may by order direct all or any of the following, that is to say—

(a) that any local enactment passed with respect to that canal shall cease to have effect so far as it confers any public or private right of navigation over that canal;

(b) that any such enactment shall cease to have effect so far as it imposes any duty to maintain that canal for the purpose of navigation (including any duty to supply, or maintain a supply of, water for the canal for that purpose);

(c) that section 17 of the [M43]Regulation of Railways Act 1873 if applicable to that canal, shall cease to apply to it.

(2) An order under this section in respect of any canal may be made on the application of the person who owns or manages the canal, on the application of **[**[F403]any local authority or **[**[F404]water authority**]** in whose**][**[F403]the National Rivers Authority or any local authority in whose**]** area the canal is situated, or without any application being made.

(3) An order under this section in respect of any canal—

(a) shall specify the person, whether the person who owns or manages the canal, a **[**[F405]local authority, a **[**[F404]water authority**]** or the**][**[F405]local authority, the National Rivers Authority or the**]** Minister, by whom any such compensation as is mentioned in subsection (4) of this section is to be paid;

(b) may confer on a person specified in the order power to authorise any use of the canal which would have been authorised by a statutory right of navigation which by virtue of the order ceases to be exercisable as respects the canal;

(c) may make provision, in relation to the canal or any works connected therewith, for purposes corresponding to those of section 109 of this Act; and

(d) may include such incidental or supplementary provisions as the Minister thinks fit, including provisions for applying section 259 of the [M44]Public Health Act 1936 and **[**[F406]section 215 of the Town and Country Planning Act 1990**]**, or, as the case may be, section 16 of the [M45]Public Health (Scotland) Act 1897 and **[**[F407]section 63 of the [M46]Town and Country Planning (Scotland) Act 1972**]** to the canal.

(4) Any person who suffers loss by reason of the extinguishment by virtue of an order under this section of any private right shall be entitled to be paid by the person specified in that behalf in the order compensation to be determined, in case of dispute, by the appropriate tribunal; and the tribunal shall, in determining the compensation, take into account any contractual right offered by the person who owns or manages the canal in substitution for the right which is extinguished.

(5) Schedule 13 to this Act shall have effect in relation to the making of any order under this section, and any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) In this section "canal" includes any navigation which has been made under, or in respect of which tolls may be levied by virtue of, any enactment, and references to a canal include references to part of a canal.

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(7[F408]

Textual Amendments

F403 Words commencing "the National Rivers" substituted (E.W.) for words commencing "any local" by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 38(2)(a)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

F404 Words substituted by virtue of Water Act 1973 (c. 37), **s. 9(a)**

F405 Words commencing "local authority, the National" substituted (E.W.) for words commencing "local authority, a water" by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 38(2)(b)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

F406 Words substituted by virtue of Planning (Consequential Provisions) Act 1990 (c.11, SIF 123:1, 2), s. 4, **Sch. 2 para. 22(3)**

F407 Words substituted by Town and Country Planning (Scotland) Act 1972 (c. 52), **Sch. 21 Pt. II**

F408 Ss. 107(4), 112(7) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

Marginal Citations

M43 1873 c. 48.

M44 1936 c. 49.

M45 1897 c. 38.

M46 1972 c. 52.

113 Byelaws in respect of waterways owned or managed by certain bodies. E+W+S

(1) The Minister may, on the application of any qualified body which owns or manages an inland waterway and after consultation with the relevant authority, by order confer on that body power to make byelaws in relation to that waterway for such purposes as may be specified in the order.

(2) Byelaws made by virtue of an order under this section shall not have effect until confirmed by the Minister, and before applying to the Minister for the confirmation of any byelaws the body concerned shall take such steps as may be specified in the order for securing that persons affected by the byelaws have an opportunity of making representations thereon to the Minister.

(3) If any person contravenes, or fails to comply with, any byelaws made by virtue of an order under this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**[F409]level 1 on the standard scale**]**, and if the contravention or failure to comply is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £5 for each day on which it is so continued.

(4) An order under this section may contain such supplementary provisions as the Minister thinks necessary or expedient.

(5) In this section—

"qualified body" means any navigation authority as defined in section 135(1) of the [M47]Water Resources Act 1963, a body mentioned in any of the paragraphs of section 109(2) of this Act (except paragraph (c) thereof) and any other body having public or charitable objects;

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"relevant authority", in relation to any order, **[**F410means any local authority or **[**F411water authority**]** (except any such authority which is itself the applicant for the order)**][**F410means, except in a case where it is itself the applicant for the order, the National Rivers Authority or any local authority**]** in whose area the waterway in question is wholly or partly situated.

(6) Section 40 of the M48Railway and Canal Traffic Act 1888 (which makes provision as to the byelaws of canal companies) shall not apply to byelaws made by virtue of an order under this section.

Textual Amendments

F409 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)

F410 Words commencing "means, except" substituted (E.W.) for words commencing "means any local" by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 38(3)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

F411 Words substituted by virtue of Water Act 1973 (c. 37), **s. 9(a)**

Marginal Citations

M47 1963 c. 38.

M48 1888 c. 25.

114 Power of local authorities to assist in maintaining waterways for amenity purposes. E+W+S

Without prejudice to section 109 of this Act, a local authority may assist any other person (whether financially, by the provision of services or facilities, or otherwise) in maintaining or improving for amenity or recreational purposes, including fishing—

(a) any inland waterway situated wholly or partly in the area of the authority; and

(b) any other inland waterway which is so situated that it can conveniently be used for those purposes by persons residing in the area of the authority.

Supplementary

115 Interpretation of Part VII. E+W+N.I.

(1) In sections 105 and 112 of this Act—

(a) references to any right of navigation over a waterway or canal include references to any right to use or keep any vessel or craft on the waterway or canal;

(b) "the appropriate tribunal" means, as respects England and Wales, the Lands Tribunal and, as respect Scotland, the Lands Tribunal for Scotland or, until sections 1 to 3 of the M49Lands Tribunal Act 1949 come into force as regards Scotland, an official arbiter appointed under Part I of the M50Land Compensation (Scotland) Act 1963;

and sections 3 and 5 of the said Act of 1963 shall apply, subject to any necessary modifications, in relation to the determination of any question under either of those sections by an arbiter so appointed.

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(2) Nothing in section 105 or in any order under section 112 of this Act shall be construed as abrogating any rights of navigation which subsist otherwise than by virtue of the enactments referred to in subsections (5) and (6) of the said section 105 or subsection (1) of the said section 112; and in those subsections references to rights conferred by an enactment do not include references to rights which are merely confirmed by it and which, if that enactment had not been passed, would subsist otherwise than by virtue of any such enactments as aforesaid.

(3) In sections 109, 112, 113 and 114 of this Act, "local authority" means—

(a) as respects England and Wales, the council of a county, F412[F413district] or London borough, F414 and the Common Council of the City of London;

(b)

F415(4F416

Extent Information

E2 This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only

Textual Amendments

F412 Words repealed by Local Government Act 1972 (c. 70, SIF 81:1), **Sch. 30**

F413 Word substituted by virtue of Local Government Act 1972 (c. 70, SIF 81:1), **s. 179(3)**

F414 Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**

F415 S. 115(3)(b) omitted by virtue of Local Government (Scotland) Act 1973 (c. 65), **Sch. 18 para. 19**

F416 S. 115(4) repealed by Water Act 1973 (c. 37 SIF 130), Sch. 9

Marginal Citations

M49 1949 c. 42.

M50 1963 c. 51.

115 Interpretation of Part VII. S

(1) In sections 105 and 112 of this Act—

(a) references to any right of navigation over a waterway or canal include references to any right to use or keep any vessel or craft on the waterway or canal;

(b) "the appropriate tribunal" means, as respects England and Wales, the Lands Tribunal and, as respect Scotland, the Lands Tribunal for Scotland or, until sections 1 to 3 of the Lands Tribunal Act 1949 come into force as regards Scotland, an official arbiter appointed under Part I of the Land Compensation (Scotland) Act 1963;

and sections 3 and 5 of the said Act of 1963 shall apply, subject to any necessary modifications, in relation to the determination of any question under either of those sections by an arbiter so appointed.

(2) Nothing in section 105 or in any order under section 112 of this Act shall be construed as abrogating any rights of navigation which subsist otherwise than by virtue of the enactments referred to in subsections (5) and (6) of the said section 105 or subsection (1) of the said section 112; and in those subsections references to rights conferred by an enactment do not include references to rights which are merely

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confirmed by it and which, if that enactment had not been passed, would subsist otherwise than by virtue of any such enactments as aforesaid.

[F623(3) In sections 109, 112 and 113 of this Act "local authority" means a regional or islands council and in section 114 of this Act means a regional, islands or district council.**]**

(4)

Textual Amendments

F623 S. 115(3) substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 18 para. 19**

PART VIII E+W+S

BRIDGES, LEVEL CROSSINGS, ETC.

Bridges

116 Transfer of responsibility for maintenance of highways on bridges over Boards' railways, inland waterways, etc. E+W+S

(1) Where a highway is carried by a bridge over one or more of the following, that is to say, a railway of the Railways Board, a railway of **[**F417London Regional Transport**]**, an inland waterway of the Waterways Board or any other installation or land used by any of those Boards in connection with a railway or inland waterway, and immediately before the appointed day—

(a) the Board or Boards concerned are responsible for maintaining the highway carried by the bridge, or that highway together with the highway giving access to the bridge; and

(b) the highway at each end—

(i) of the bridge; or

(ii) if the Board or Boards are also responsible for maintaining the highway giving access to the bridge, of the bridge and any such highway,

is a highway maintainable at the public expense,

the highway carried by the bridge, together with any such highway as is mentioned in paragraph (b)(ii) of this subsection, shall on that day become a highway maintainable at the public expense.

(2) Any agreement between any of the Boards mentioned in subsection (1) of this section and a highway authority, so far as it provides for that authority to carry out after the appointed day, at the expense of the Board, any maintenance for which the Board cease to be responsible by virtue of that subsection, shall cease to have effect on that day.

(3) Where by virtue of any agreement or order made before the appointed day—

(a) a **[**F418highway**][**F418roads**]** authority is responsible for maintaining the **[**F418highway**][**F418road**]** carried by or giving access to a bridge such as is mentioned in subsection (1) of this section; and

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(b) but for that agreement or order, any of the Boards mentioned in that subsection would by virtue thereof have ceased to be responsible for maintaining that **[**F418highway**][**F418road**]** on that day,

that Board shall not by virtue of that agreement or order be liable to make to that **[**F418highway**][**F418roads**]** authority in respect of the maintenance of that **[**F418highway**][**F418road**]** any annual or other periodical payment (not being an instalment of a lump sum) which falls due after that day.

[F419X4(4) Where paragraphs (a) and (b) of subsection (1) of this section are not satisfied immediately before the appointed day in the case of any such bridge as is mentioned in that subsection, or such a bridge as aforesaid is constructed after that day, then, if those paragraphs are satisfied in the case of that bridge on any subsequent day, the highway carried by the bridge, together with any highway giving access to the bridge for the maintenance of which the Board or Boards concerned are also responsible, shall on that subsequent day become a highway maintainable at the public expense.

[F420(5) A highway which by virtue of this section on any day becomes a highway maintainable at the public expense shall—

(a) if and so far as it is in any county, be a county road if on that day the highway at one or both ends of it is in relation to that county a county road; and

(b) if, and so far as it is in a non-county borough or **[**F421district,**]** be a claimed county road if on that day the highway at one or both ends of it is in relation to that borough or district a claimed county road;

but this subsection shall be without prejudice to any provision by virtue of which a highway may at any time cease to be a county road or a claimed county road."**]]**

[F419X4(4) Where paragraphs (*a*) and (*b*) of subsection (1) of this section are not satisfied immediately before the appointed day in the case of such bridge as is mentioned in that subsection, or such a bridge as aforesaid is constructed is constructed after that day, then if on any subsequent day—

(a) the Board or Boards concerned are responsible for maintaining the road carried by the bridge, or that road together with the road giving access to the bridge (the "access road"); and

(b) the road at each end—

(i) of the bridge; or

(ii) if the Board or Boards are also responsible for maintaining the access road, of the bridge and the access road,

the road (or roads) for which they are so responsible shall forthwith be entered by the local roads authority in the list of public roads kept by the authority under section 1 of the Roads (Scotland) Act **[**M51**]**1984.**]**

(6) **[**F422Without prejudice to the provisions of the said Act of 1984,**]**This section shall not affect the responsibility of any of the Boards for the maintenance of any part of a bridge or its approaches other than the surface of the **[**F423highway**][**F423road**]**, and a **[**F423highway**][**F423road**]** authority—

(a) shall not by virtue of this section be under any duty to make good, or incur any liability by reason of, any defect in the surface of the **[**F423highway**][**F423road**]** so far as attributable to the failure of any of the Boards to discharge that responsibility;

(b) shall permit the Board or Boards concerned to carry out on or in relation to the surface of the **[**F423highway**][**F423road**]** any works reasonably required to be carried out by them for discharging that responsibility or for inspecting,

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maintaining or altering any apparatus of the Board or Boards incorporated in or attached to the bridge; and

(c) shall not, without the consent of the Board or Boards concerned, increase to a significant extent the weight of the materials constituting the surface of the **[**F423highway**][**F423road**]**.

(7) Nothing in this section shall affect any liability incurred by any of the Boards by reason of any act or omission in relation to any **[**F423highway**][**F423road**]** before the day on which they cease by virtue of this section to be responsible for its maintenance.

Editorial Information

X4 S. 116(4) substituted (S.) for s. 116(4)(5) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(2)(b)**

Textual Amendments

F417 Words substituted by virtue of London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 4 Pt. I para. 4(1)**

F418 Words “road" and “roads" substituted (S.) (1.1.1985) for word “highway" by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(2)**(*a*)

F419 S. 116(4) substituted (S.) for s. 116(4)(5) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(2)(b)**

F420 S. 116(5) repealed (E.W.) by Local Government Act 1972 (c. 70), **Sch. 30**

F421 Word substituted by virtue of Local Government Act 1972 (c. 70, SIF 81:1), **s. 179(3)**

F422 Words inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(2)**(*c*)(i)

F423 Words “road" or “roads" substituted for “highway" by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(2)**(*c*)(ii)

Modifications etc. (not altering text)

C109 S. 116 amended by Transport (London) Act 1969 (c. 35), **Sch. 3 para. 1(1)(2)**

C110 Ss. 116, 117 extended by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 6, 45, **Sch. 2 para. 21(4)**

Marginal Citations

M51 1984 c. 54**.**

117 Duty of Boards as respects bridges carrying highways. E+W+S

(1) This section applies to any bridge which—

(a) carries a **[**F424highway**][**F424road**]** over one or more of the following that is to say, a railway of the Railways Board, a railway of **[**F425London Regional Transport**]**, an inland waterway of the Waterways Board or any other installation or land used by any of those Boards in connection with a railway or inland waterway; and

(b) belongs to the Board or Boards whose railway, waterway, installation or land is crossed by the bridge.

(2) It shall be the duty of each of the Boards mentioned in subsection (1) of this section—

(a) in constructing a bridge which, on completion, will belong to the Board and be a bridge to which this section applies, or in reconstructing a bridge which belongs to the Board and to which this section applies, to secure that it has the required load-bearing capacity;

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(b) to maintain and, if necessary, to improve or strengthen any bridge which belongs to the Board and to which this section applies so that it has the required load-bearing capacity, and, if at any time it is not reasonably practicable to secure that it has that capacity by means of maintenance, improvement or strengthening, to reconstruct the bridge or to replace it by a new bridge.

(3) For the purposes of subsection (2) of this section a bridge has the required load-bearing capacity—

(a) in the case of a bridge in relation to which load-bearing standards are prescribed by an order made by the appropriate Minister, if it complies with those standards; and

(b) in the case of any other bridge, if it is such as to be capable of bearing the weight of the traffic which ordinarily uses, or may reasonably be expected to use, the highway carried by the bridge on or about the day on which this section comes into force in relation to bridges of the Board concerned or, if the bridge is constructed subsequently, **[**F426when it is opened for traffic.**][**F426—

(i) when the bridge is opened (the date of opening being before 1st January 1985) for traffic on the highway so carried;

(ii) when the bridge is opened (the date of opening being on or after 1st January 1985) for traffic on the road so carried.**]**

(4) An order made for the purposes of subsection (3)(a) of this section—

(a) may prescribe standards for a particular bridge or for any class or description of bridges;

(b) may, in prescribing standards for a particular bridge or for any class or description of bridges, at the same time prescribe different standards for any bridge or bridges resulting from the reconstruction or replacement of that bridge or of any of those bridges;

(c) may prescribe standards by reference to any document published by the British Standards Institution, any government department or any other body or authority, and provide that where standards are prescribed as aforesaid any question as to the requirements to be fulfilled by a particular bridge in order to comply with those standards shall be determined, in case of dispute, by a certificate of the appropriate Minister;

(d) shall not, so long as a bridge is not reconstructed or replaced, be such as to require the bridge to comply with standards higher than those prescribed in relation thereto by a previous order under this section.

(5) For the purposes of subsection (3)(b) of this section, no account shall be taken of any traffic which cannot use the highway **[**F427, or as the case may be road,**]** carried by the bridge in question without infringing a prohibition for the time being in force under section 1, 6, **[**F428or 14 of the Road Traffic Regulation Act 1984**]**.

(6) The requirements of this section shall be in addition to, and, so far as inconsistent therewith, shall prevail over, any requirements applicable to the bridge in question under section 46, 50, 51, 52, or 66 of the M52Railways Clauses Consolidation Act 1845, section 39, 43, 44, 45, or 58 of the M53Railways Clauses Consolidation (Scotland) Act 1845 or under any similar enactment.

(7) In subsection (2) of this section references to a bridge being constructed by or belonging to a Board include references to its being constructed by or belonging to any two or more of the Boards mentioned in subsection (1) of this section, and in any

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such case the duties imposed by the said subsection (2) shall be duties of both or all of those Boards.

(8) In this section "the appropriate Minister" means, as respects bridges in England, the Minister and as respects bridges in Scotland or Wales, the Secretary of State.

Textual Amendments

F424 "road" substituted (S.) (1.1.1985) for "highways" by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9**, para. 66(3)(*a*)

F425 Words substituted by virtue of London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 4 Pt. I para. 4(1)**

F426 Words from "—(i) when the bridge" to "so carried" substituted (S.) (1.1.1985) for words "when" to "traffic" by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(3)**(*b*)

F427 Words inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(3)**(*c*)

F428 Words substituted by Road Traffic Regulations Act 1984 (c. 27, SIF 107:1), s. 144, **Sch. 13 para. 7**

Modifications etc. (not altering text)

C111 S. 117 amended by Transport (London) Act 1969 (c. 35), **Sch. 3 para. 1(1)(2)**

C112 Ss. 116, 117 extended by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 6, 45, **Sch. 2 para. 21(4)**

Marginal Citations

M52 1845 c. 20.

M53 1845 c. 33.

118 Duty of highway authorities, etc., as respects bridges over Boards' railways or inland waterways. E+W+S

(1) This section applies to any bridge, including a bridge constructed after the day on which this section comes into force, which—

(a) carries a **[**F429road**][**F429highway**]** over one or more of the following, that is to say, a railway of the Railways Board, a railway of **[**F430London Regional Transport**]** or an inland waterway of the Waterways Board; and

(b) belongs to the Minister, the Secretary of State, a local **[**F431highway**][**F431roads**]** authority or some other person not being the Board or Boards whose railway or waterway is crossed by the bridge.

(2) Subject to subsections (4) and (5) of this section, it shall be the duty of the person to whom a bridge to which this section applies belongs (in this section referred to as "the owner") to maintain it in such a condition that it is not a source of danger to, and does not interfere with, or require any restriction to be placed on, the traffic from time to time using the railway or inland waterway crossed by the bridge.

(3) Any of the said Boards whose railway or inland waterway is crossed by a bridge to which this section applies (in this section referred to as "the relevant Board") shall be entitled at all reasonable times to inspect and survey that bridge and for that purpose to place on or against it such apparatus as may be reasonably required; and subject to subsection (5) of this section, the Board may—

(a) at any time serve on the owner a notice requiring him to carry out, within such reasonable time as may be specified in the notice, any works so specified

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which are required to maintain the bridge in, or to restore it to, the condition mentioned in subsection (2) of this section; and

(b) if all or any of those works are not satisfactorily carried out by the owner in accordance with the notice, themselves carry out all or any of those works and recover the reasonable expenses of so doing from the owner;

and, if, in the opinion of the Board, it is necessary so to do by reason of the urgency of the matter, the Board may, without giving any such notice, themselves carry out any works which are required as aforesaid and, subject to subsection (5) of this section, recover the reasonable expenses of so doing from the owner.

(4) The relevant Board shall afford to the owner of a bridge to which this section applies such access to land occupied by them as he may reasonably require for maintaining the bridge in, or restoring it to, the condition mentioned in subsection (2) of this section, except that the Board shall not be obliged to afford access for any works the carrying out of which would, in the opinion of the Board, involve danger to or interference with, or require any restriction to be placed on, traffic using the railway or inland waterway crossed by the bridge, and where the Board refuse access as aforesaid—

(a) the owner of the bridge shall not by virtue of subsection (2) of this section be under any duty to carry out those works; but

(b) the Board may themselves carry out those works and, subject to subsection (5) of this section, recover the reasonable expenses of so doing from the owner.

(5) The owner of a bridge shall not by virtue of the foregoing provisions of this section be under any duty to carry out or pay for works for making good any defect—

(a) caused by the withdrawal of support from land in connection with the working or getting of minerals or with brine pumping; or

(b) for which the relevant Board are themselves responsible;

but nothing in this subsection shall affect any agreement between the owner of the bridge and the relevant Board and, subject to any such agreement, the relevant Board shall be entitled to carry out any works which are required to make good any such defect as aforesaid.

(6) The owner of any bridge to which this section applies shall afford to the relevant Board such access to land occupied by him as they may reasonably require for exercising their powers under this section; but the Board shall not claim such access as of right unless they have given the owner not less than seven days previous notice in writing stating the purpose of the proposed entry, except that they shall not be obliged to give such a notice if, in their opinion, it is impracticable to do so by reason of the urgency of the matter, in which case they shall take such steps as are reasonably practicable (before or after they enter the land) for informing the owner of the purpose of the entry.

(7) Where, in exercising their powers under this section in relation to any bridge, a Board cause damage to the bridge or to any land occupied by the owner of the bridge, they shall pay to the owner such compensation as may be just.

(8) The duty imposed by subsection (2) of this section on the owner of a bridge shall be in addition to any duty of the owner to maintain the bridge which arises under any other enactment or any order or agreement passed or made before the day on which this section comes into force or the date on which the bridge became a bridge to which this section applies, as the case may be; and, if under any such enactment, order or agreement there are subsisting as between the owner and the relevant Board any rights or liabilities as respects the making of payments in connection with the maintenance of the bridge, those rights and liabilities may be abrogated or modified by agreement

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between them or, in default of agreement, on the application of either of them, by arbitration.

(9) Any dispute arising out of this section between the owner of a bridge and a Board shall be referred to arbitration, but this subsection—

(a) shall be without prejudice to any provision of this section whereby any matter is to be determined by the opinion of a Board; and

(b) shall not preclude the carrying out by a Board of any works pending the determination of any arbitration proceedings.

(10) The provisions of this section shall have effect in relation to any bridge subject to any agreement made between the owner of the bridge and the relevant Board after the date on which those provisions became applicable to the bridge.

(11) Where any cable, pipe or other apparatus is incorporated in or attached to a bridge to which this section applies, then—

(a) if the apparatus belongs to the owner of the bridge, it shall be treated for the purposes of this section as forming part of the bridge; and

(b) if the apparatus belongs to some other person, the provisions of subsections (2) to (10) of this section shall have effect in relation to the apparatus and to that person as they have effect in relation to a bridge to which this section applies and to the owner of such a bridge;

but none of the said Boards shall by virtue of this subsection interfere with the use of any such apparatus for providing any supply or service if the apparatus is so used by its owner under statutory powers and he has not consented to that interference.

(12) Nothing in this section shall be taken as authorising any person to interfere with traffic lawfully using any bridge, or as authorising the disregard of any of the provisions of the [M54]Public Utilities Street Works Act 1950.

Textual Amendments

F429 Word “road" substituted (S.) (1.1.1985) for word “highway" by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(4)**(*a*)

F430 Words substituted by virtue of London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 4 Pt. I para. 4(1)**

F431 Word “road" substituted (S.) (1.1.1985) for word “highway" by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(4)**(*b*)

Modifications etc. (not altering text)

C113 S. 118 amended by Transport (London) Act 1969 (c. 35), **Sch. 3 para. 1(1)(2)**

C114 Ss. 116-118 applied (with modifications) (21.5.1992) by S.I. 1992/1267, **art.7**.

Marginal Citations

M54 1950 c. 39.

119 Ending of liability of Boards to make payments on being relieved of responsibility for bridges carrying trunk or special roads. E+W+S

(1) Where after the appointed day any bridge belonging to the Railways Board, **[**[F432]London Regional Transport**]** or the Waterways Board is transferred to the Minister or the Secretary of State under **[**[F433]section **[**[F434]266 of the [M55]Highways Act 1980**]** or

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section 7 of the [M56]Trunk Roads Act 1946 **[**[F434]266 of the [M57]Highways Act 1980 or section 80 of the Roads (Scotland) Act 1984**]]** (bridges carrying highways **[**[F435], or as the case may be roads**]** which become trunk roads) or to a special road authority by an order made by virtue of **[**[F433]section **[**[F436]267 of the said Act of 1980**]** or section 8 of the [M58]Special Roads Act 1949**][**[F436]267 of the said Act of 1980 or section 81 of the said Act of 1984**]** (bridges carrying highways **[**[F435], or as the case may be roads,**]** which are included in special road schemes), the Board—

(a) shall not be liable under the provisions of **[**[F433]section **[**[F437]55(2) of the said Act of 1980**]**, section 7(3) of the said Act of 1946 or section 8(2) of the said Act of 1949**]**, **[**[F437]55(2) of the said Act of 1980 or subsection (4) of the said section 80 (or that subsection as applied by subsection (2) of the said section 81)**]**, to pay any sum in respect of the value to the Board of the extinguishment of their liability for the maintenance, **[**[F438]repair**]** or improvement of the bridge or the highway **[**[F439], or as the case may be road,**]** carried thereby; but

(b) shall not be entitled to receive under **[**[F433]section **[**[F440]266(5) or 267(2) of the said Act of 1980**]** or the said section 7(3) or 8(2)**][**[F440]266(5) or 267(2) of the said Act of 1980 or subsection (4) of the said section 80 (or that subsection applied as aforesaid)**]** any sum in respect of the value to them of the bridge as an asset productive of revenue except to the extent (if any) by which that sum exceeds the sum which, apart from paragraph (a) of this subsection, the Board would be liable to pay under the provisions mentioned in that paragraph.

(2) None of the Boards mentioned in subsection (1) of this section shall be liable to pay any instalment or make any annual payment under the provisions mentioned in paragraph (a) of that subsection if the obligation to pay that instalment or to make that payment arises from the transfer of any bridge before the appointed day and that instalment or payment falls due after that day.

Textual Amendments

F432 Words substituted by virtue of London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 4 Pt. I para. 4(1)**

F433 Words substituted by Highways Act 1980 (c. 66), **Sch. 24 para. 18**

F434 Words "266" to "1984" substituted (S.) (1.1.1985) for words "266" to "1946" by virtue of Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(5)**(*a*)

F435 Words inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(5)**(*b*)

F436 Words "267" to "1984" substituted (S.) (1.1.1985) for words "267" to "1949" by virtue of Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(5)**(*c*)

F437 Words "55(2)" to "81" substituted (S.) (1.1.1985) for words "55(2)" to "1949" by virtue of Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(5)**(*d*)

F438 Words repealed (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), 157(2), **Sch. 11**

F439 Words inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(5)**(*d*)

F440 Words "266(5)" to "aforesaid)" substituted (S.) (1.1.1985) for words "266(5)" to "8(2)" by virtue of Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para.66(5)**(*e*)

Modifications etc. (not altering text)

C115 S. 119 amended by Transport (London) Act 1969 (c. 35), **Sch. 3 para. 1(1)(2)**

C116 Ss. 116-119 applied (with modifications) (1.9.1993) by S.I. 1993/2154, **art.3(4)**

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Marginal Citations

M55 1980 c. 66.
M56 1946 c. 30
M57 1980 c. 66.
M58 1949 c. 32.

120 . . . . . [F441] **E+W+S**

Textual Amendments

F441 S. 120 repealed by Local Government, Planning and Land Act 1980 (c. 65, SIF 81:1, 2:103:1, 2), **Sch. 34 Pt. VII**

121 Application of foregoing sections to undertakers other than Railways Board, London Board and Waterways Board. E+W+S

(1) In the foregoing sections of this Part of this Act any reference to the Railways Board, **[**[F442]London Regional Transport**]** or the Waterways Board includes a reference to any subsidiary of that Board;. . . [F443]

(2) The Minister may by order apply—

(a) all or any of the provisions of section 116 or 117 of this Act to bridges over railways or inland waterways of persons other than the Boards mentioned in those sections or their subsidiaries, or over installations or land used in connection with a railway or inland waterway by persons other than those Boards or subsidiaries,. . . [F443];

(b) all or any of the provisions of section 118 of this Act to bridges over railways or inland waterways of persons other than the Boards mentioned in that section or their subsidiaries.

(3) An order under subsection (2) of this section may make such modifications in the provisions applied by it, and in any other enactment or instrument relating to the bridge, railway, inland waterway, installation or land to which it relates, as appear to the Minister to be appropriate.

(4) An order under the [M59]Light Railways Act 1896 may make provision for any matter for which provision can be made by an order made under subsection (2) of this section in relation to a railway or to any installation or land used in connection with a railway.

(5) Before making an order under subsection (2) of this section or by virtue of subsection (4) thereof, the Minister shall consult with the highway authority concerned (unless he is himself that authority); and, before making an order under the said subsection (2), the Minister shall consult with the owner of the railway, inland waterway, installation or land concerned.

[[F444](6) Where an order made under subsection (2) or by virtue of subsection (4) of this section applies all or any of the provisions of section 117 of this Act to any bridge to which that section has not at any previous time applied, paragraphs 15, 16, 18, 19 and 20 of Schedule 11 to **[**[F445]the [M60]Highways Act 1980**]** (which relate to the apportionment of expenses) shall apply in relation to that bridge as if—

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(a) the provisions of the said section 117 so applied were an order to which the said paragraph 15 applies; and

(b) the bridge were such a bridge as is mentioned in the said paragraph 15; and

(c) the highway authorities referred to in those paragraphs of the said Schedule 11 were the highway authority or highway authorities for the highway carried by the bridge;

but if the order made as aforesaid also applies to the bridge all or any of the provisions of section 116 of this Act and the highway carried by or giving access to the bridge has under the provisions of the said section 116 so applied become a highway maintainable at the public expense instead of by the owners of the bridge, then, for the purposes of **[**F445sub-paragraph (2)(c) of**]** the said paragraph 15, the share of the expense there referred to of those owners shall be increased by an amount equivalent to the amount of any saving to those owners, in consequence of those provisions of the said section 116, of expense in maintaining that highway.

(7) In the application of the last foregoing subsection to Scotland, references therein to paragraphs 15, 16, 18, 19 and 20 of Schedule 11 to **[**F445the M61Highways Act 1980**]** and to **[**F445sub-paragraph (2)(c) of**]** the said paragraph 15 shall be construed as references to the following provisions respectively of the M62Bridges Act 1929, namely, sections 6(1), 6(2), 6(3), 7(2) and 15(b) and paragraph (c) of the proviso to the said section 6(1).**]**

(8) In subsections (2) and (3) of this section, and in subsection (5) thereof so far as it relates to subsection (2), references to the Minister shall, as respects bridges in Scotland or Wales, be construed as references to the Secretary of State. **[**F446; and in the application of the said subsection (5) to Scotland the reference to a highway authority shall be construed as a reference to a roads authority.**]**

Textual Amendments

F442 Words substituted by virtue of London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 4 Pt. I para. 4(2)**

F443 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F444 S. 121(6)(7) repealed (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), ss. 156(3), 157(2), **Sch. 11**

F445 Words substituted by Highways Act 1980 (c. 66), **Sch. 24 para. 18**

F446 Words added (S.) (1.1.1985) by Roads (Scotland) (c. 54, SIF 108), Sch. 9 para. 66(6)

Modifications etc. (not altering text)

C117 S. 121 modified by London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 4 Pt. I para. 4(3)**

Marginal Citations

M59 1896 c. 48.

M60 1980 c. 66.

M61 1980 c. 66.

M62 1929 c. 33.

122 Interpretations of sections 116 to 121. E+W+S

(1) Where a railway or an inland waterway passes under a **[**F447highway**][**F447road**]** by means of a tunnel, or runs in a cutting over which a **[**F447highway**][**F447road**]** is superimposed, the foregoing provisions of this Part of this Act (except sections 119

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and 120) shall, so far as applicable and subject to any necessary modifications, have effect in relation to the **[**F447highway**][**F447road**]** as if it were carried by a bridge and to the structure of the tunnel or, as the case may be, the structure by means of which the **[**F447highway**][**F447road**]** is superimposed as aforesaid, as if that structure were a bridge.

(2) In sections 116, 117 and 120 of this Act, and in section 121 thereof so far as it relates to the said sections 116 and 117, references to a railway include references to a railway which has ceased to carry any traffic and to the site of a railway from which the track has been removed.

(3) In sections 117 and 118 of this Act, and in section 121 thereof so far as it relates to those sections, references to a bridge include references to any abutments or other parts of a bridge and, if the person to whom the bridge belongs is responsible for the maintenance thereof—

(a) to the surface of the **[**F447highway**][**F447road**]** carried by, or giving access to, the bridge;

(b) to any embankment, retaining wall or other work or substance supporting or protecting the surface of that **[**F447highway**][**F447road**]**.

[F448(4) In the foregoing provisions of this Part of this Act, and in this section, references to a highway do not include references to a waterway.**]**

Textual Amendments

F447 Word “road" substituted (S.) (1.1.1985) for word “highway" by Roads (Scotland) Act 1984 (c. 54, SIF 108), **Sch. 9 para. 66(7)**(*a*)

F448 S. 122(4) repealed (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), ss. 156(3), 157(2), **Sch. 11**

Level crossings

123 Power of highway and other authorities to contribute to cost of barriers, etc., at level crossings. E+W+S

(1) Contributions to the expenses incurred by the Railways Board in providing lifting or other barriers, lights, signs, or other devices or appliances for the protection or convenience of the public at or near any level crossing where a road is crossed by a railway of the Board may be made by—

(a) the **[**F449highway**][**F449roads**]** authority, if any, for that road; **[**F450and

(b) any local authority, not being the highway authority, in whose area the level crossing is situated.**]**

(2) In this section “local authority” means, as respects England and Wales, the council of a county,. . . F451 London borough or county **[**F452district**]**. . . F453 and the Common Council of the City of London and, as respects Scotland, a county council and a town council.

Textual Amendments

F449 Word “roads" substituted (S.) (1.1.1985) for word “highway" by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(8)**

F450 Words repealed (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 21(3)**(*b*)

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F451 Words repealed by Local Government Act 1972 (c. 70, SIF 81:1), **Sch. 30**
F452 Word substituted by virtue of Local Government Act 1972 (c. 70, SIF 81:1), **s. 179(3)**
F453 Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**

124 Board's obligations at level crossings with roads other than public carriage roads. E+W+S

(1) The Minister may by order require the Railways Board—

(a) to provide, maintain and operate, at or near any level crossing where a road other than a **[**F454public carriage**][**F454carriageway of a public**]** road is crossed by a railway of the Board, such lifting or other barriers, lights, signs or other devices or appliances; and

(b) to comply with such other requirements in relation to the level crossing,

as he considers necessary or desirable for the protection or convenience of the public.

(2) The obligations imposed on the Board in respect of any level crossing by an order under this section shall be in substitution for any obligations imposed on them in respect of that crossing by section 68 of the M63Railways Clauses Consolidation Act 1845 (which requires gates and other works to be provided for the benefit of adjacent land), section 60 of the M64Railways Clauses Consolidation (Scotland) Act 1845 (which makes corresponding provision for Scotland) or any other enactment for purposes similar to either of those sections.

(3) Not less than two months before making an order under this section in respect of any level crossing (other than an order varying or revoking a previous order under this section) the Minister shall send a draft of the proposed order to the Board and to each local authority in whose area the level crossing is situated, and if the Board or any such authority makes representations to the Minister with respect to the proposed order he shall consider the representations and may then make the order in the form of the draft or in that form with such modifications as he thinks fit.

(4) In this section "local authority" means, as respects England and Wales, the council of a county,. . . F455 London borough or **[**F456district**]**. . . F457 and the Common Council of the City of London and, as respects Scotland, a **[**F458regional or islands**]** council.

Textual Amendments

F454 Words "carriageway of a public" substituted (S.) (1.1.1985) for words "public carriage" by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(9)**
F455 Words repealed by Local Government Act 1972 (c. 70, SIF 81:1), **Sch. 30**
F456 Word substituted by virtue of Local Government Act 1972 (c. 70, SIF 81:1), **s. 179(3)**
F457 Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
F458 Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 14 para. 75**

Marginal Citations

M63 1845 c. 20.
M64 1845 c. 33.

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Inspectors of railways

125 Powers of inspectors of railways as respects persons other than railway companies and their staff. E+W+S

(1) The powers of an inspector of railways under paragraph (1) of section 4 of the [M65]Regulation of Railways Act 1871 (entry to and inspection of railway premises and equipment) shall also be exercisable in respect of—

(a) any bridge over or under which any railway passes, being a bridge not belonging to a railway company;

(b) any premises occupied by a person to whom paragraph (a), (c) or (d) of subsection (2) of this section applies and used for the purposes of any such work as is mentioned in that paragraph.

(2) The power of such an inspector under paragraph (2) of the said section 4 (summoning, questioning and obtaining of returns from railway companies and their staff) shall also be exercisable in respect of—

(a) any person (other than a person mentioned in the said paragraph (2)) who, in pursuance of a contract with a railway company, is carrying or has carried out any work on, over or under a railway or in respect of any premises or equipment used in connection with a railway;

(b) any person who is the owner, or responsible for the maintenance, of any such bridge as is mentioned in subsection (1)(a) of this section;

(c) any person who, in pursuance of a contract with a person to whom paragraph (b) of this subsection applies, is carrying or has carried out any work in connection with any such bridge as aforesaid;

(d) any person who, in pursuance of a contract with a person to whom paragraph (a) or (c) of this subsection applies, is carrying or has carried out any such work as is mentioned in that paragraph;

(e) any employee of a person to whom any of the foregoing paragraphs of this subsection applies, being an employee whose duties are connected with any such work or bridge as is mentioned in that paragraph, and, where a person to whom any of the foregoing paragraphs of this subsection applies is a body corporate, any director or other person engaged in the management of that body.

(3) The power of any such inspector under paragraph (3) of the said section 4 (production of books, papers and documents of a railway company) shall also be exercisable in respect of the books, papers and documents of a person to whom paragraph (a), (b), (c) or (d) of subsection (2) of this section applies which relate to any such work or bridge as is mentioned in that paragraph.

(4) In this section references to a railway company include references to any of the Boards whose undertaking includes a railway. . . [F459].

Textual Amendments

F459 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

Modifications etc. (not altering text)

C118 S. 125 amended (2.2.1994) by 1993 c. 43, **s. 117(1)(6)** (with S.I. 1990/1380**arts. 3**, 4); S.I. 1994/202, **art. 2**

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C119 S. 125 power to repeal or modify (2.2.1994) by 1993 c. 43, **ss. 117(4)(k)(6)**, 150 (1)(e); S.I. 1994/202, **art. 2**

C120 S. 125 amended by Transport (London) Act 1969 (c. 35), **Sch. 3 para. 1(1)(2)**

Marginal Citations

M65 1871 c. 78.

PART IX E+W+S

REGULATION OF ROAD TRAFFIC

126— 132. . . . . . F460 E+W+S

Textual Amendments

F460 Ss. 126–132 repealed by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), s. 144, **Sch. 14**

133 . . . . . F461 E+W+S

Textual Amendments

F461 S. 133 repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

PART X U.K.

MISCELLANEOUS AND GENERAL

134 Duty to act in certain cases as body engaged in commercial enterprise. U.K.

(1) This section applies to the following authorities, namely, the Boards, the new authorities, and the Executive for any **[**F462designated area within the meaning of section 9(1)**][**F462area which is a passenger transport area for the purposes of Part II**]** of this Act.

(2) Every authority to whom this section applies who engage, either directly or through a subsidiary, in any activities authorised by any of the provisions specified in subsection (3) of this section shall in carrying on those activities act as if they were a company engaged in a commercial enterprise or, as the case may be, shall exercise their control over that subsidiary so as to ensure that the subsidiary in carrying on those activities acts as a company so engaged.

(3) The provisions referred to in subsection (2) of this section are—

(a) the following provisions of the Act of 1962, namely, subsections (2) to (4) of section 11 (which relate to certain development or acquisition of land);

(b) the following provisions of this Act, namely, sections. . . F463, 10(1)(viii), (xi), (xx)(b) and (xxii), 25(e) and (f), 26(1)(e)(ii), (f) and (k), 48(2), 49(1) to (4),

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50(1) (so far as it relates to the provision of facilities at additional premises), and 50(2) to (5).

Textual Amendments

F462 Words commencing "area which is" substituted (E.W.S.) for words commencing "designated" by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 17**

F463 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

135 Compensation for loss of employment etc. U.K.

(1) The Minister shall by regulations require the payment by such person as may be determined by or under the regulations, in such cases and to such extent as may be so determined, of compensation to or in respect of any person who is on the date of the happening of any of the following events, namely—

(a) a transfer of any property, rights or liabilities under section 4, 5, 7, 8, 28, 29, 53 or 144 of this Act; or

(b) any change in the manner in which the carrying on of the activities of the Railways Board or the Freight Corporation is organised made—

(i) in pursuance of a direction under section 6(1) or 45(5) of this Act; or

(ii) with the consent of the Minister in order to give effect to conclusions reported under the said section 45; or

(c) the making of any adaptations such as are mentioned in paragraph 5(4) of Schedule 16 to this Act; or

(d) the revocation under paragraph 10(1) of Schedule 6 to this Act of a consent granted under that Schedule,

or who has before that date been, in any employment so determined and who suffers any loss of employment, or loss or diminution of emoluments or pension rights, or worsening of his position, which is properly attributable to the happening of that event.

(2) Any such regulations may apply in relation to any such person whether or not he continues in the employment determined as aforesaid until the date of the happening of the relevant event aforesaid, and whether or not he is a party to an agreement for the rendering of personal services which is affected by the happening of that event.

(3) Different regulations may be made under this section in relation to different classes of persons, and any such regulations may be so framed as to have effect from a date prior to the making thereof, so, however, that so much of any such regulations as provides that any provision thereof is to have effect as from a date earlier than the making thereof shall not place any person other than the person required to pay the compensation in a worse position than he would have been in if the regulations had been made to have effect only as from the making thereof.

(4) Regulations under this section—

(a) may prescribe the procedure to be followed in making claims for compensation, and the manner in which and the person by whom the question whether any or what compensation is payable is to be determined; and

(b) may in particular contain provisions enabling appeals from any determination as to whether any or what compensation is payable to be brought, in such cases and subject to such conditions as may be prescribed by the regulations, before **[**[F464]an industrial tribunal**]**.

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(5) No regulations shall be made under this section unless a draft thereof has been approved by a resolution of each House of Parliament.

(6) Where any of the following authorities, namely the Boards, the new authorities and the Holding Company, are required by any such regulations to pay compensation thereunder, any other of those authorities may arrange to make to the compensating authority payments by way of contributions towards their liability under the regulations; and if the compensating authority satisfy the Minister that any of the other authorities have not made a proper contribution towards that liability, whether by payment of money or by finding employment for persons to or in respect of whom the compensation has become payable, the Minister may require that other authority to make such payment to the compensating authority as appears to the Minister to be just.

(7) In relation to regulations under this section in connection with a transfer such as is mentioned in paragraph (a) of subsection (1) thereof to or from the Scottish Group or a subsidiary of theirs, references in the said subsection (1) to the Minister shall be construed as references to the Minister and the Secretary of State acting jointly; and for the purposes of any payment by the Scottish Group under subsection (6) of this section, references to the Minister in the said subsection (6) shall be construed as references to the Secretary of State.

Textual Amendments

F464 Words substituted for words "a tribunal established under section 12 of the Industrial Training Act 1964" by Employment Protection (Consolidation) Act 1978 (c. 44), **Sch. 16 para. 6**

Modifications etc. (not altering text)

C121 S. 135(1) extended by Transport Act 1978 (c. 55), **s. 15(3)**

136 Pensions. U.K.

(1) Subject to subsection (3) of this section, sections 73 and 74 of the Act of 1962 (which relate respectively to the powers of the Boards and the Holding Company as regards pensions and pension schemes and to the Minister's power to make orders about pensions) shall have effect—

(a) as if the expression "Board" in each of those sections included each of the new authorities; and

(b) as if the reference in subsection (2)(a) of the said section 74 to a pension scheme in which employees of the Commission or a subsidiary of the Commission participated before the vesting date included a reference to a pension scheme in which employees of, or of a subsidiary of, the Railways Board or the Holding Company participated before any relevant transfer date such as is mentioned in subsection (4) of this section.

(2) If in the case of any transfer such as is mentioned in subsection (4) of this section an order under the said section 74 as applied by this section is made before the transfer date which provides for the transfer on that date from the transferor to some other person of property, rights and liabilities of the transferor relating to any pensions or pension schemes—

(a) that order may apply to the transfer under the order such of the provisions of Schedule 4 to this Act subject to such modifications as the Minister may consider appropriate; and

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(b) save as may be provided by that order, the provisions of this Act with respect to the transfer mentioned in the said subsection (4) shall not apply in relation to the property, rights and liabilities to which the order relates.

(3) In relation to the Scottish Group, references to the Minister—

(a) in the said section 73 and, for the purposes of orders relating only to that Group, in the said section 74 and in subsection (2) of this section shall be construed as references to the Secretary of State;

(b) in the said section 74 and subsection (2), for the purposes of orders relating both to that Group and to other authorities, shall be construed as references to the Minister and the Secretary of State acting jointly.

(4) Any person who—

(a) on the transfer date for the purposes of a transfer under any of the following provisions of this Act, namely, sections 4(1), 4(4), 5(3) (a) or (b), 7(5) or (6), 8(4), 28(1), (2) or (5) and 29(2), ceases to be employed by one, and becomes employed by another, of the following bodies, namely, the Railways Board, the Holding Company, the new authorities and any body which is a subsidiary of that Board or Company or of any of the new authorities;

(b) on the transfer date for the purposes of any transfer under subsection (2) of section 53 of this Act ceases to be employed by the Holding Company and becomes employed by any publicly-owned body within the meaning of subsection (1)(a) of that section or under the Crown; or

(c) on any such transfer date as aforesaid is employed by a body which immediately before that date was a subsidiary of one, but on that date becomes a subsidiary of another, of the following bodies, namely, the Railways Board, the Holding Company and the new authorities,

shall not in consequence cease to be eligible to participate in any pension scheme in which he was a participant immediately before that transfer date.

(5) In the application of subsection (4) of this section to a pension scheme the benefits under which are or will be receivable as of right, persons who have obtained pension rights under the scheme without having contributed under the scheme shall be regarded as participants in the scheme; and the reference in that subsection to being eligible to participate in a pension scheme shall be construed accordingly.

(6) Subsections (4) and (5) of this sections shall have effect subject to any order under section 74 of the Act of 1962 made by virtue of subsection (1) of this section, being an order taking effect on or at any time after the relevant transfer date referred to in the said subsection (4).

Modifications etc. (not altering text)
C122 S. 136(2)(4) extended by Transport Act 1978 (c. 55), **s. 15(4)**

137 Machinery for negotiation and consultation with staff. U.K.

(1) This section applies to the following authorities, namely—

(a) the Railways Board, the Waterways Board. . . [F465];

(b) the new authorities;

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(c) the Executive for any **[**F466designated area within the meaning of section 9(1)**][**F466area which is a passenger transport area for the purposes of Part II**]** of this Act.

(2) In the case of each authority to whom this section applies, except so far as the authority are satisfied that adequate machinery exists for achieving the purposes of this section, being machinery for operation at national level or local level or a level falling between those levels and appearing to the authority to be appropriate, it shall be the duty of the authority, either directly, or indirectly by exercising control over subsidiaries, to seek consultation with any organisation appearing to them to be appropriate with a view to the conclusion between the authority and that organisation or, if the authority so decide, between subsidiaries of theirs and that organisation, of such agreements as appear to the parties to be desirable with respect to the establishment and maintenance, for operation at any such level as aforesaid, of machinery for—

(a) the settlement by negotiation of terms and conditions of employment of persons employed by the authority and by their subsidiaries with provision for reference to arbitration in default of such settlement in such cases as may be determined by or under the agreements;

(b) the promotion and encouragement of measures affecting efficiency, in any respect, in the carrying on by the authority and by their subsidiaries of their activities, including in particular the promotion and encouragement of the training of persons employed as aforesaid; and

(c) the promotion and encouragement of measures affecting the safety, health and welfare of persons employed as aforesaid.

(3) Every authority to whom this section applies shall send—

(a) except in the case of such an Executive as aforesaid, to the Minister and to the Secretary of State for Employment and Productivity;

(b) in the case of such an Executive, to the **[**F467Authority established under the said section 9(1) for the designated area in question**][**F467Passenger Transport Authority for the passenger transport area in question (referred to below in this section as the relevant Passenger Transport Authority)**]**,

copies of any such agreement as aforesaid and of any instrument varying the terms of any such agreement.

(4) Every authority to whom this section applies shall from time to time, at such times and within such period as—

(a) except in the case of such an Executive as aforesaid, the Minister; or

(b) in the case of such an Executive, the **[**F468Authority established as aforesaid**][**F468relevant Passenger Transport Authority**]**,

may direct, report to the Minister and to the Secretary of State aforesaid or, as the case may be, to the Authority so established as to the progress or lack of progress made in arriving at such agreements as aforesaid.

(5) Where it falls to any authority to whom this section applies or any subsidiary of theirs to participate in the operation of machinery established under this section, and the operation involves discussion of a subject by other persons participating therein, the authority or subsidiary shall make available to those persons, at a reasonable time before the discussion is to take place, such information in their possession relating to the subject as, after consultation with those persons, appears to the authority, or as the case may be, to the subsidiary to be necessary to enable those persons to participate effectively in the discussion.

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(6) Nothing in this section shall be construed as prohibiting any of the authorities to whom this section applies or any subsidiary of theirs from taking part together with other employers or organisations of employers in the establishment and maintenance of machinery for the settlement of terms and conditions of employment and the promotion and encouragement of measures affecting the health, safety and welfare of persons employed by them and the discussion of other matters of mutual interest to the authority or subsidiary and persons employed by them.

[F469(7) In this section "the Minister"—

(a) in relation to the British Waterways Board, means the Secretary of State for the Environment;

(b) in relation to the Scottish Group, means the Secretary of State for Scotland; and

(c) in relation to any other authority, means **[**F470the Secretary of State**].]**

(8) Section 72 of the Act of 1962 shall cease to apply to the Railways Board, the Waterways Board. . . F465

Textual Amendments

F465 Words repealed by S.I. 1973/338, **Sch. 2**

F466 Words commencing "area which is" substituted (E.W.S.) for words commencing "designated" by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 18**

F467 Words commencing "Passenger Transport Authority" substituted (E.W.S.) for words commencing "Authority" by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 18**(*b*)

F468 Words commencing "relevant" substituted (E.W.S.) for words commencing "Authority established" by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 18**(*c*)

F469 S. 137(7) substituted by S.I. 1976/1775, **Sch. 3 para. 8**

F470 Words substituted by virtue of S.I. 1979/571, **arts. 2**, 3(5) and 1981/238, arts. 2(2), 3(2)-(4)

Modifications etc. (not altering text)

C123 S. 137 extended by Transport (London) Act 1969 (c. 35), **s. 13**

138 Travel concessions. E+W+S

. . . . . F471

Textual Amendments

F471 S. 138 repealed with saving for subsection (2) by Transport Act 1985 (c. 67, SIF 126), s. 139(1)(3), Sch. 6 para. 23(1), **Sch. 8**

[F472**139 Land required as service area for special road: compensation in certain cases of compulsory acquisition.** E+W+S

(1) Where land is compulsorily acquired—

(a) by virtue of. . . F473**[**F474section 239(4)(*c*) of the Highways Act M661980**][**F475section 30(2)(c) of the M67Roads (Scotland) Act 1970**]** (which relate to land required for the provision of service stations or other buildings or facilities for use in connection with a special road) in a case where the

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acquisition is authorised by a compulsory purchase order which does not also authorise the acquisition of land required for the provision of the adjacent length of special road; or

(b) in pursuance of a notice under. . . F473[F476section 169, 177 or 178 of the M68Town and Country Planning (Scotland) Act 1972] (which relate to the protection of owners of land affected by certain planning decisions) in a case where the person by whom the compensation in respect of the acquisition falls to be assessed is satisfied that there are proposals for using the whole or part of the relevant land for such purposes in connection with a special road as are mentioned in the said section. . . F473[F475]30(2)(c)] and that the amount of the compensation would apart from this section be affected by the provision or proposed provision of the special road; or

(c) in pursuance of a notice under. . . F473[F476section 182 of the said Act of 1972] (which relate to the protection of owner-occupiers of land affected by planning proposals) in a case where the appropriate enactment for the purposes of. . . F473[F476section 185 of the said Act of 1972] is or includes the said section. . . F473[F475]30(2)(c)]

then, for the purpose of assessing compensation in respect of the compulsory acquisition, the value of the relevant interest shall be ascertained—

(i) so far as it is attributable to any relevant planning permission, on the assumption that traffic carried by the special road will not have direct or indirect access to the relevant land; and

(ii) so far as it is not attributable to any such planning permission, on the assumption that traffic carried by the special road will not have direct access to the relevant land.

(2) In this section—

"direct access" means access otherwise than by means of a highway which is not a special road and "indirect access" means access by means of such a highway as aforesaid;

"relevant planning permission" means any planning permission for service area development which is in force on the date of service of the notice to treat, or as to the grant of which any assumption is required to be made by virtue. . . F473 section 23 or 24 of the M69Land Compensation (Scotland) Act 1963, or the possibility of the grant of which is taken into account in assessing the compensation;

"service area development" means development of the relevant land, or of any part thereof, for the purpose of providing such service stations or other buildings or facilities as are mentioned in. . . F473 the said section [F475]30(2)(c)] or of providing any other buildings or facilities designed to cater to a significant extent for traffic carried or to be carried by the special road;

and any expression which is also used in the said Act of. . . F473 1963 has the same meaning,. . . F473 and, as respects Scotland, as in the said Act of 1963.

(3) This section shall not affect any compulsory acquisition in pursuance of a notice to treat served or deemed to have been served before the day on which this section comes into force.]

Textual Amendments

F472 S. 139 repealed (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), ss. 156(3), 157(2), **Sch. 11**

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F473 Words repealed by Highways Act 1980 (c. 66), **Sch. 25**
F474 Words substituted (E.W.) by virtue of Highways Act 1980 (c. 66, SIF 59), **Sch. 23 para. 19** and Interpretation Act 1978 (c. 30, SIF 115:1), **s. 17(2)**(*a*)
F475 Words substituted by virtue of Roads (Scotland) Act 1970 (c. 20), **Sch. 1 para. 13**
F476 Words substituted by Town and Country Planning (Scotland) Act 1972 (c. 52), **Sch. 21 Pt. II**

Marginal Citations
M66 1980 c. 66**(59.)**
M67 1970 c. 20.
M68 1972 c. 52.
M69 1963 c. 51.

140 . . . . . F477 U.K.

Textual Amendments
F477 S. 140 repealed by Highways Act 1980 (c. 66 SIF 59), Sch. 25

141 Application of Town and Country Planning Acts. E+W+S

(1) Section 86 of the Act of 1962 (application of Town and Country Planning Acts) shall have effect as if the expression "Board" therein included each of the new authorities and the Executive for any **[**F478area which is a passenger transport area for the purposes of Part II**]**.

(2) Where in the case of any company—

(a) the company is a wholly-owned subsidiary of one of the following bodies, namely, a board, a new authority, or such an Executive as aforesaid; or

(b) two or more such bodies as aforesaid are members of the company and, if those bodies were a single body corporate, the company would be a wholly-owned subsidiary of that body corporate,

the said section 86 shall have effect as if the expression "Board" therein included that company and, so far as the activities of the company consist of the carrying on of any such undertaking as is mentioned in the definition of "statutory undertakers" in **[**F479section 336(1) of the Town and Country Planning Act 1990**]** or in **[**F480section 275(1) of the M70Town and Country Planning (Scotland) Act 1972**]**, the company shall be deemed for the purposes of the said section 86 and any other enactment relating to statutory undertakers or statutory undertakings to be such undertakers carrying on such an undertaking.

(3) Subsection (1) of the said section 86 shall apply—

(a) to anything done by a Board or new authority in the exercise of the powers conferred by section 49(3) or (4) of this Act; and

(b) to anything done by such an Executive as aforesaid in the exercise of the powers conferred by paragraph (xxii) of section 10(1) of this Act; and

(c) to anything done by such a company as aforesaid which, if that company were a Board or such an Executive as aforesaid, would be an exercise of—

(i) the powers referred to in paragraph (a) or (b) of the said subsection (1); or

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(ii) the powers conferred by the said section 49(3) or (4); or

(iii) the powers conferred by the said paragraph (xxii),

as it applies to anything done by a Board in the exercise of the powers referred to in paragraph (a) or (b) of the said subsection (1).

Textual Amendments

F478 Words substituted by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 19**

F479 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 22(4)**

F480 Words substituted by Town and Country Planning (Scotland) Act 1972 (c. 52), **Sch. 21 Pt. II**

Modifications etc. (not altering text)

C124 S. 141 amended by Transport (London) Act 1969 (c. 35), **Sch. 3 para 1(1)(2)**

Marginal Citations

M70 1972 c. 52.

142 Powers of Minister in connection with channel tunnel. E+W+S

(1) The Minister may acquire by agreement any land which in his opinion is likely to be required for the provision in England of a terminal for, or of other works for the purposes of, a railway linking England with France and passing under the English Channel.

(2) Where compensation is payable by a local authority under **[**F481the Town and Country Planning Act 1990 or the Planning (Listed Buildings and Conservation Areas) Act 1990 or the Planning (Hazardous Substances) Act 1990**]** in consequence of any decision or order given or made under **[**F481Part III or Part VIII of the Town and Country Planning Act 1990 or the provisions of Part VI of that Act relating to purchase notices or the Planning (Listed Buildings and Conservation Areas) Act 1990 or the Planning (Hazardous Substances) Act 1990**]**, then if that decision or order was given or made wholly or partly in consequence of the land to which it relates being likely to be required as mentioned in subsection (1) of this section the Minister may pay to that authority a contribution of such amount as he may with the consent of the Treasury determine.

Textual Amendments

F481 Words substituted by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 22(5)(a)(b)**

143 . . . . . F482 E+W+S

Textual Amendments

F482 S. 143 repealed by Statute Law (Repeals) Act 1989 (c. 43), s 1(1), **Sch. 1 Part X**

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144 Transfer and disposal of historical records and relics. E+W+S

(1) Subject to subsections (2) to (4) of this section, the Railways Board may, with the consent of the Minister—

(a) transfer without consideration to the Secretary of State for Education and Science any of the historical records and relics which were vested in the Board by section 31(2)(f) of the Act of 1962 and are for the time being in the possession of the Board, and any premises of the Board in which any significant collection of those records or relics is housed;

(b) transfer, without consideration or by way of sale, to any other person, or otherwise dispose of, any of those records or relics.

(2) No record vested in the Railways Board by the said section 31(2)(f) which is housed by the Board in premises in Scotland shall under subsection (1) of this section be transferred to any person other than the Secretary of State for Scotland or otherwise disposed of unless that record—

(a) has been previously offered by the Board to that Secretary of State; and

(b) has not been claimed by that Secretary of State within six months of the date on which the offer was made;

and if the record is claimed as aforesaid the Board shall transfer it without consideration to that Secretary of State.

(3) No record having special associations with the undertaking of **[**F483London Regional Transport**]**, and no relic having special associations with the undertaking of any relevant authority (that is to say, **[**F484London Regional Transport**]** any of the Boards other than the Railways Board, any of the new authorities or the Holding Company) shall under subsection (1) of this section be transferred to any person other than the authority in question or otherwise disposed of unless—

(a) it has been previously offered by the Railways Board to that authority; and

(b) it has not been claimed by that authority within six months of the date on which the offer was made;

and if the record or relic is claimed as aforesaid the Railways Board shall transfer it without consideration to that authority.

(4) There shall be no transfer or disposal of any record or relic under subsection (1)(b) of this section, except in pursuance of subsection (2) or (3) of this section, unless—

(a) the record or relic has been previously offered by the Railways Board to the Secretary of State for Education and Science; and

(b) it has not been claimed by him within six months of the date on which the offer was made;

and, in the case of a record, before consenting to a transfer or disposal to which the foregoing provisions of this subsection apply, the Minister shall consult with such persons as the Minister and the Secretary of State for Education and Science acting jointly may consider—

(i) to possess appropriate qualifications for advising on the treatment of records of the class or description to which the particular record in question belongs; and

(ii) to be the appropriate persons to consult with respect to that particular record.

(5) Where any record or relic has been transferred to any relevant authority under subsection (3) of this section or under paragraph 4 of the British Transport Historical Relics Scheme 1963, that relevant authority shall, in respect of that record or relic,

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have the same powers, exercisable subject to the same conditions, as the Railways Board have under subsection (1) of this section in respect of the records and relics there mentioned.

(6) Subsections (1) to (5) of this section shall have effect notwithstanding anything in the schemes in force under paragraph 1(5) of Schedule 6 to the Act of 1962 (which impose duties as to the preservation of the historical records and relics vested in the Railways Board by that Act) and the Railways Board may, with the approval of the Minister, vary or revoke any such scheme so far as appears to the Board and the Minister to be expedient in consequence of those subsections; but, where any record or relic which has been transferred to a relevant authority under subsection (3) of this section or under paragraph 4 of the said Scheme of 1963 is for the time being in the possession of that or any other relevant authority, then (without prejudice to the powers conferred by subsection (5) of this section and to any relevant requirement of any scheme made under the said paragraph 1(5) which remains in force with or without variations made under this subsection) it shall be the duty of the relevant authority for the time being having possession of that record or relic to preserve it in suitable accommodation.

(7) Neither the Railways Board nor **[**[F484]London Regional Transport**]** shall dispose of any document or object for the time being in their possession which was not vested in them by the said section 31(2)(f) but falls within a class of documents or objects for the time specified by an agreement between the Board concerned and the Secretary of State for Education and Science as of sufficient interest to warrant preservation in any collection maintained or proposed to be maintained by him, unless—

(a) it has been previously offered by the Board to that Secretary of State; and

(b) it has not been claimed by him within six months of the date on which the offer was made;

and if that document or object is claimed as aforesaid the Board concerned shall transfer it without consideration to that Secretary of State.

[[F485]In relation to any document or object in the possession of London Regional Transport, references above in this subsection to the Board concerned are references to London Regional Transport.**]**

[[F486](7A) Neither subsection (4) nor subsection (7) above shall apply to a transfer by London Regional Transport of any record or relic or (as the case may be) of any document or object to any subsidiary of theirs; but in relation to any such record, relic, document or object for the time being in the possession of a subsidiary or former subsidiary of London Regional Transport—

(a) references to a relevant authority in subsections (5) and (6) of this section and references to London Regional Transport in subsection (7) of this section (except in the reference to an agreement between London Regional Transport and the Secretary of State) shall be read as including that subsidiary or former subsidiary; and

(b) the foregoing provisions of this subsection shall apply for the purposes of subsection (4) of this section (as it applies by virtue of subsection (5)) and for the purposes of subsection (7) of this section as if the reference to a transfer by London Regional Transport to any subsidiary in question to any subsidiary of London Regional Transport.**]**

(8) Any offer or claim for the purposes of this section shall be in writing; and any such claim shall be of no effect unless—

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(a) it contains a statement of the time (which shall be not more than three months after the date of the claim) when the claimant proposes to remove what he has claimed; and

(b) the claimant removes what he has claimed in accordance with that statement or at such later time as may be allowed by the authority to whom the claim was made.

(9) Nothing in Schedule 1 to the [M71]Public Records Act 1958 shall cause any records transferred under this section to become, by reason of that or any subsequent transfer, public records within the meaning of that Act; but any records so transferred which at any time are for the time being in the custody of the Secretary of State for Scotland may be treated for the purposes of section 5(1) of the [M72]Public Records (Scotland) Act 1937 as records belonging to Her Majesty.

Textual Amendments

F483 Words substituted by virtue of London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 4 Pt. I para. 5**(*a*)

F484 Words inserted by London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 4 Pt. I para. 5**(*b*)

F485 Paragraph inserted by London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 4 Pt. I para. 5**(*c*)

F486 S. 144(7A) inserted by London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 4 Pt. I para. 5**(*d*)

Modifications etc. (not altering text)

C125 S. 144: Functions of the Secretary of State for Education and Science transferred (3.7.1992) to the Secretary of State for National Heritage by S.I. 1992/1311, **art.5(1)**.
S. 144 shall cease to have effect in relation to trasfers or other disposals by the Board (2.9.1994) by S.I. 1994/2032, **art. 3**

C126 S. 144 restricted (1.1.1993) by S.I. 1992/3060, **reg.4(2)**.

C127 S. 144 restricted (*prosp*) by 1993 c. 43, **ss. 125(8)**, 154(2) which was repealed and superseded (18.9.1996) by 1996 c.42, **s. 8(2)**

Marginal Citations

M71 1958 c. 51.

M72 1937 c. 43.

145 Minor amendments of Road Traffic Act 1960. E+W+S

(1) . . . . . [F487]

(2) The power of the Minister under subsection (2) of section 123 of the Act of 1960 to appoint a deputy or an additional deputy to. . . [F488] the chairman of the traffic commissioners for any. . . [F488] traffic area (being a power exercisable if the Minister considers that, owing to the number of applications under Parts III and IV of that Act, the duties to be performed by those persons cannot conveniently or efficiently be performed by them alone) shall include power to appoint two or more deputies, or as the case may be, additional deputies to. . . [F488] those persons.

(3) . . . . . [F489]

Textual Amendments

F487 S. 145(1) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. I**

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F488 Words repealed by Transport (London) Act 1969 (c. 35, SIF 126), **Sch. 6**
F489 S. 145(3)(4) repealed by Road Traffic Act 1972 (c. 20, 107:1), s. 205, **Sch. 9 Pt I**

[F490 146 Approval marks. U.K.

(1) Section 47 of the M73 Road Traffic Act 1962 (which relates to approval marks for motor vehicle parts for the purposes of certain international agreements) shall apply where any international agreement to which the United Kingdom is a party provides—

(a) for markings to be applied to a motor vehicle to indicate that the vehicle is fitted with motor vehicle parts within the meaning of that section of any description and either—

(i) that the parts conform with a type approved by any country; or

(ii) that the vehicle is such that as so fitted it conforms with a type so approved; and

(b) for motor vehicles bearing those markings to be recognised as complying with the requirements imposed by the law of another country,

as it applies where such an agreement provides as mentioned in paragraphs (a) and (b) of subsection (1) of that section.

(2) In the said section 47, the expression "motor vehicle part" shall include any equipment for the protection of drivers or passengers in or on a motor vehicle notwithstanding that it does not form part of, or of the equipment of, that vehicle.

(3) In this section, the expression "motor vehicle" means a mechanically propelled vehicle or a vehicle designed or adapted for towing by a mechanically propelled vehicle.**]**

Textual Amendments
F490 S. 146 repealed (E.W.)(S.) by Road Traffic Act 1972 (c. 20, SIF 107:1), s. 205, **Sch. 9 Pt. I**

Marginal Citations
M73 1962 c. 59.

147 . . . . . F491 E+W+S

Textual Amendments
F491 S. 147 repealed by Vehicles (Excise) Act 1971 (c. 10, SIF 107:2), s. 39, **Sch. 8 Pt. I**

148 . . . . . F492 E+W+S

Textual Amendments
F492 S. 148 repealed by Road Traffic Act 1972 (c. 20, SIF 107:2), s. 205, **Sch. 9 Pt. I**

149 . . . . . F493 E+W+S

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Textual Amendments

F493 S. 149 repealed by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), s. 144, **Sch. 14**

150 . . . . . F494 **U.K.**

Textual Amendments

F494 S. 150 repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

151 . . . . . F495 **E+W+S**

Textual Amendments

F495 S. 151 repealed by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 29**

152 . . . . . F496 **E+W+S**

Textual Amendments

F496 S. 152 repealed by Harbours, Piers and Ferries (Scotland) Act 1972 (c. 29, SIF 58), **s. 1(1)**

153 . . . . . F497 **E+W+S**

Textual Amendments

F497 S. 153 repealed by Dock Work Act 1989 (c. 13, SIF 43:1), s. 7(1), **Sch. 1 Part I**

154 . . . . . F498 **E+W+S**

Textual Amendments

F498 S. 154 repealed by Statute Law Repeals Act 1981 (c. 19), **Sch. 1**, Pt. VII

155 . . . . . F499 **E+W+S**

Textual Amendments

F499 S. 155 repealed by House of Commons Disqualification Act 1975 (c. 24, SIF 89), **Sch. 3** and Northern Ireland Assembly Disqualification Act 1975 (c. 25, SIF 29:3), **Sch. 3 Pt. I**

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156 Miscellaneous, supplementary and consequential provisions. U.K.

(1) With a view to giving the public advance notice of plans for the discontinuance of any rail or shipping services provided by. . . [F500] the Scottish Group or any subsidiary of. . . [F500] or Group, that. . . [F500] Group shall from time to time publish in such manner and in such places in the United Kingdom as. . . [F500] the Secretary of State may direct such information as to their plans as. . . [F500] the Secretary of State may determine.

(2) The enactments referred to in Schedule 16 to this Act shall have effect subject to the provisions of that Schedule, being provisions supplementary to or consequential on provisions of this Act.

Textual Amendments

F500 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

157 Orders and regulations. U.K.

Any power to make orders or regulations conferred on any Minister by any provision of this Act shall, except in the case of an order under section 124, be exercisable by statutory instrument; and any power to make an order under any provision of this Act shall include power to make such an order varying or revoking any previous order under that provision.

158 Inquiries. U.K.

(1) The Minister may hold inquiries for the purposes of his functions under any provision of this Act other than Part V as if those purposes were purposes of the [M74]Ministry of Transport Act 1919 and section 20 of that Act shall apply accordingly.

(2) For the purposes of any functions under this Act of the Secretary of State for Scotland or the Secretary of State for Wales, subsection (1) of this section, the said section 20 and section 90(2) to (7) of the Act of 1962 shall have effect as if for any reference therein to the Minister there were substituted a reference to that Secretary of State.

Modifications etc. (not altering text)

C128 S. 158(1) modified (1.6.1993) by S.I. 1993/1119, reg. 4(1)(a), **Sch. 1 para.2**

Marginal Citations

M74 1919 c. 50.

159 Interpretation—general. U.K.

(1) In this Act, except where the context otherwise requires, and except in any Part as respects which the expression in question is separately defined, the following expressions have the following meanings respectively, that is to say—

"the Act of 1960" means the [M75]Road Traffic Act 1960;

"the Act of 1962" means the [M76]Transport Act 1962;

"appointed day" means the relevant day appointed under section 166(2) of this Act;

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[F501“area bus service” means a bus service which is, or so far as it is, a service on which passengers may be taken up and set down at different places within the same area designated under section 9(1) of this Act, whether or not any passengers on that service may also be taken up or set down outside that area;**]**

“the Boards” means the Boards established under section 1 of the Act of 1962, namely, the British Railways Board,. . . F502 the British Transport Docks Board and the British Waterways Board, and references to a Board shall be construed accordingly;

“the Bus Company” means the National Bus Company established under section 24 of this Act;

[F503**[**F504“bus service” means a stage carriage service within the meaning of Part I of **[**F505the Public Passenger Vehicles Act M77**]** which is neither—

(a) an excursion or tour; nor

(b) a service as regards which the condition specified in **[**F505section 2(3)(*a*) of the Public Passenger Vehicles Act 1981**]** (long journeys only) is satisfied;**]]**

[F503“bus service” means a local service other than one on which the passengers travel together on a journey, with or without breaks, from one or more places to one or more places and back**]**

[F506“carriageway” has the same meaning as in the Roads (Scotland) Act M78 1984;**]**

“charges” includes fares, rates, tolls and dues of every description;

“the Docks Board” means the British Transport Docks Board established under section 1 of the Act of 1962;

[F507**[**F504“excursion or tour” means a stage or express carriage service on which the passengers travel together on a journey, with or without breaks, from one or more places to one or more other places and back;**]**

“express carriage” and “stage carriage” have the same meanings respectively as for the purposes of the **[**F505Public Passenger Vehicles Act 1981**]**;**]**

“ferry service” means a transport service by water (including such a service by means of a hovercraft) which carries passengers and operates regularly between two or more points both or all of which are in Great Britain;

F508“functions” includes powers, duties and obligations;

“goods” includes animals and mails;

“harbour” has the same meaning as in the Act of 1962;

“highway authority” in relation to any highway means—

(a) for the purposes of the application of this Act to England or Wales, the highway authority for that highway under Part I of **[**F509the M79 Highways Act 1980**]**;

[F510(b) for the purposes of the application of this Act to Scotland—

(i) where the highway is a trunk road, the Secretary of State; and

(ii) in any other case, the **[**F511regional or islands council**]**;**]**

“the Holding Company” means the Transport Holding Company established under section 29 of the Act of 1962;

“hovercraft” has the same meaning as in the M80 Hovercraft Act 1968;

“inland waterway” includes every such waterway whether natural or artificial;

“land” includes land covered by water and any interest or right in, over or under land;

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"lease" includes an agreement for a lease;

"liability" includes an obligation;

[F512"local roads authority" has the same meaning as in the Roads (Scotland) Act 1984;**]**

[F513"local service" has the same meaning as in the Transport Act 1985;**]**

F514"the Minister" means, save as otherwise expressly provided and in particular subject to sections 7(7), 8(5), 9(6), 17(6)(a) and 28(6) of this Act, **[**F515the Secretary of State**]**;

"the new authorities" means. . . F516 the Bus Company and the Scottish Group;

"participant", in relation to a pension scheme, means a person who (whether he is referred to in the scheme as a member, as a contributor or otherwise) contributes or has contributed under the scheme and has pension rights thereunder and "participate" shall be construed accordingly;

"pension", in relation to a person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a gratuity so payable and a return of contributions to a pension fund, with or without interest thereon or any other addition thereto and any sums payable on or in respect of the death of that person;

"pension fund" means a fund established for the purposes of paying pensions;

"pension rights" includes, in relation to any person, all forms of right to or eligibility for the present or future payment of a pension, and any expectation of the accruer of a pension under any customary practice, and includes a right of allocation in respect of the present or future payment of a pension;

"pension scheme" includes any form of arrangement for the payment of pensions, whether subsisting by virtue of Act of Parliament, trust, contract or otherwise;

"plated weight", in relation to a vehicle, means a weight required to be marked on it by means of a plate in pursuance of regulations made by virtue of **[**F517section 41 of the Road Traffic Act 1988 or required to be so marked by section 57 or 58 of that Act.**]**;

[F518"public road" has the same meaning as in the Roads (Scotland) Act 1984;**]**

"public service vehicle" has the same meaning as for the purposes of the **[**F505Public Passenger Vehicles Act 1981**]**;

"the Railways Board" means the British Railways Board established under section 1 of the Act of 1962;

[F519"road" and "roads authority" have the same meanings as in the Roads (Scotland) Act 1984;**]**

[F520"road service licence" has the same meaning as for the purposes of the Act of 1960. . . F521;**]**

"Scottish Group" means the Scottish Transport Group established under section 24 of this Act;

"securities", in relation to a body corporate, means any shares, stock, debentures, debenture stock, and any other security of a like nature, of the body corporate;

"subsidiary" and "wholly-owned subsidiary", subject to section 51(5) of this Act, have the same meanings respectively as in the Act of 1962;

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"vehicle" includes a hovercraft;

"the Waterways Board" means the British Waterways Board established under section 1 of the Act of 1962;

"Wales" includes Monmouthshire, and references to England shall be construed accordingly.

(2) Except where the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment, including this Act.

Textual Amendments

F501 Definition repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 139(3), **Sch. 8**
F502 Words repealed by Transport (London) Act 1969 (c. 35, SIF 126), **Sch. 6**
F503 Definition commencing " "bus service" means a local service" substituted (E.W.S.) for the definition commencing " "bus service" means a stage" by Transport Act 1985 (c. 67, SIF 126), s. 1, **Sch. 1 para. 1**(*a*)
F504 Definitions substituted by Transport Act 1980 (c. 34), **Sch. 5 Pt. II**
F505 Words substituted by Public Passenger Vehicles Act 1981 (c. 14, SIF 108), s. 157(2), **Sch. 9 para. 66(10)**(*a*)
F506 Definition inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(10)**(*a*)
F507 Definitions repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 139(3), **Sch. 8**
F508 Definition repealed by Transport Act 1980 (c. 34), **Sch. 9 Pt. III**
F509 Words substituted by Highways Act 1980 (c. 66), **Sch. 24 para. 18**
F510 Paragraph (b) repealed (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), ss 156(3), 157(2), **Sch. 11**
F511 Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 14 para. 76**
F512 Definition inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(10)**(*c*)
F513 Definition inserted (E.W.S.) by Transport Act 1985 (c.67, SIF 126), s. 1, **Sch. 1 para. 1**(*b*)
F514 Definition repealed by Transport (London) Act 1969 (c. 35), **Sch. 6**
F515 Words substituted by virtue of S.I. 1981/238, **arts. 2(2)**, 3(2)-(4)
F516 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**
F517 Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 6(8)**
F518 Definition inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(10)**(*d*)
F519 Definition inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(10)**(*e*)
F520 Definition repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 139(3), **Sch. 8**
F521 Words repealed by Transport Act 1980 (c. 34), **Sch. 9 Pt. I**

Marginal Citations

M75 1960 c. 16.
M76 1962 c. 46.
M77 1981 c. 14**(107:1).**
M78 1984 c. 54**(108).**
M79 1980 c. 66.
M80 1968 c. 59.

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160 Stamp duty. U.K.

(1) Nothing in section 12 of the [M81]Finance Act 1895 (which requires Acts to be stamped as conveyances on sale in certain cases) or in section 52 of the [M82]Finance Act 1946 (which exempts from stamp duty certain documents connected with nationalisation schemes) shall be taken as applying to this Act.

(2) . . . . . [F522]

(4) . . . . . [F523]

(5) Stamp duty shall not be chargeable on any instrument which is certified to the Commissioners of Inland Revenue by the appropriate Board or new authority or appropriate Executive **[**[F524]established under section 9(1)**][**[F524]for any area which is a passenger transport area for the purposes of Part II**]** of this Act as having been made or executed in pursuance of Schedule 4 to this Act otherwise than by virtue of section 7(7)(b) thereof; but no such instrument shall be deemed to be duly stamped unless it is stamped with the duty to which it would but for this subsection be liable or it has, in accordance with the provisions of section 12 of the [M83]Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped.

Textual Amendments

F522 S. 160(2)(3) repealed by Finance Act 1988 (c. 39, SIF 114), s. 148, **Sch. 14 Part XI**

F523 S. 160(4) repealed by Finance Act 1973 (c. 51, 63:1:2), s. 59(7), **Sch. 22 Pt. V**

F524 Words commencing “for any" substituted (E.W.S.) for words commencing “established" by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 20**

Marginal Citations

M81 1895 c. 16.

M82 1946 c. 64.

M83 1891 c. 39.

161 Income tax, etc. U.K.

(1) . . . . . [F525]

(2) . . . . . [F526]

(3) . . . . . [F527]

(4) In the Selective Employment Payments Act 1966, in Part I of Schedule 1 (which sets out the bodies to which section 3 of that Act applies)—

(a) in paragraph 14, after the words “paragraphs 9 to 13”there shall be inserted the words “ or paragraphs 23 to 25 ”;

(b) at the end there shall be added the following paragraphs—

“23	The National Freight Corporation.
24	The National Bus Company.

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25 The Scottish Transport Group.";

and in subsection (3) of the said section 3 after the words "paragraphs 9 to 13"there shall be inserted the words " and 23 to 25 ".

Textual Amendments

F525 S. 161(1) repealed by Capital Allowances Act 1990 (c. 1, SIF 63:1), s. 164, **Sch. 2**

F526 S. 161(2) repealed by Income and Corporation Taxes Act 1970 (c. 10, SIF 63:1), ss. 537(1), 538, 539, **Sch. 16**

F527 S. 161(3) repealed by Capital Allowances Act 1990 (c. 1, SIF 63:1), s. 164, **Sch. 2**

Modifications etc. (not altering text)

C129 The text of s. 103(8), 161(4), 162(5), Sch. 16, paras. 8(1)(3), 9, 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

162 Rating. E+W+S

[F528(1) Where any premises are occupied wholly or partly—

(a) for purposes of a subsidiary of the Railways Board, **[**F529the London Transport Executive**]** or the Waterways Board which, if the undertaking of that subsidiary formed part of the undertaking of that Board, would be non-rateable purposes within the meaning of subsection (6) of section 32 of the M84General Rate Act 1967;. . . F530

(b) F531

then, for the purposes of the rating of those premises so far as they are occupied for such purposes as are mentioned in paragraph (a). . . F532 of this subsection, the undertaking of that subsidiary of that Board. . . F532 shall be deemed to form part of the undertaking of that Board and the premises so far as so occupied shall be deemed to be occupied for non-rateable purposes of that Board.**]**

(2) F533

[F528(3) Notwithstanding anything in subsection (6) or (7) of the said section 32, purposes of the exercise by any of the Boards aforesaid. . . F532 of any powers conferred by section 48 or subsections (1) to (7) of section 50 of this Act or purposes of the exercise by a subsidiary of any of those Boards. . . F532 of corresponding powers shall not be treated as non-rateable purposes within the meaning of the said section 32(6).**]**

(4) Where any premises are occupied partly for such purposes as are mentioned in subsection (1)(a). . . F532 of this section and partly for other purposes. . . F532 of such a subsidiary as is so mentioned, then—

[F528(a) where those premises are a hereditament in England or Wales—

(i) there shall be ascribed to the hereditament under section 19 of the said Act of 1967 such net annual value as may be just having regard to the extent to which it is occupied for those other purposes; and

(ii) if under any scheme for the time being in force such as is mentioned in section 117(7) of that Act any deduction falls to be made from the net annual value of the hereditament in arriving at its rateable

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value, that deduction shall be calculated with regard only to those other purposes;**]**

(b) where those premises are lands and heritages within the meaning of the [M85]Lands Valuation (Scotland) Act 1854—

(i) it shall be the duty of the Assessor of Public Undertakings (Scotland) to ascertain and fix such net annual value as may be just, having regard to the extent to which the premises are occupied for those other purposes, and for the foregoing purpose subsections (2) and (3) of section 124 of the [M86]Local Government Act 1948 (subjects to be valued by Assessor of Public Undertakings (Scotland) shall apply as they apply for the purposes of subsection (1) of that section; and

(ii) the deduction, if any, to be made by the Assessor from the net annual value in arriving at the rateable value shall be calculated with regard only to those other purposes.

[[F528](5) Section 32(4) of the said Act 1967 (which provides for the rating of railway or canal premises in England and Wales occupied partly for certain specified purposes) shall have effect as if after paragraph (*b*)thereof there were inserted the following paragraph:—

"(c) purposes of the exercise by a transport Board of any powers conferred by section 48 or subsections (1) to (7) of section 50 of the Transport Act 1968".**]**

(6) Section 87(1) of the said Act of 1948 (which provides for the rating of railway or canal premises in Scotland occupied partly for non-rateable purposes and partly for other purposes) shall have effect in relation to the Railways Board and the Waterways Board as if references to other purposes included only references to other purposes being—

(a) purposes of any parts of the undertaking of either of those Boards which, within the meaning of section 86 of that Act, are concerned with the carriage of goods or passengers by road transport or sea transport or with harbours; or

(b) purposes of any parts of the said undertakings which are subsidiary or incidental to any such part as aforesaid; or

(c) purposes of the exercise by those Boards of any powers conferred by section 48 or subsections (1) to (7) of section 50 of this Act.

(7) In the application of this section to Scotland—

(a) for any reference to subsection (6) of section 32 of the said Act of 1967 there shall be substituted a reference to section 86(2) of the [M87]Local Government Act 1948;

(b) for the reference to subsection (5) of the said section 32 there shall be substituted a reference to section 66(3) of the Act of 1962.

Textual Amendments

F528 S. 162(1)(3)(4)(*a*)(5) repealed (E.W.) (*prosp*) by Rates Act 1984 (c. 33, SIF 103:1), **Sch. 1 para. 6(7)**(*b*)(8) and expressed to be repealed (E.W.) by S.I. 1990/776, art. 3, **Sch. 1**

F529 Words substituted for reference to the London Board by virtue of Transport (London) Act 1969 (c. 35), s. 45(1), **Sch. 3 para. 1(1)(2)**

F530 Word repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F531 S. 162(1)(b) repealed by Transport Act 1980 (c. 34), **Sch. 9 Pt. III**

F532 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F533 S. 162(2) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

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Modifications etc. (not altering text)

C130 The text of s. 103(8), 161(4), 162(5), Sch. 16, paras. 8(1)(3), 9, 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M84 1967 c. 9.
M85 1854 c. 91.
M86 1948 c. 26.
M87 1948 c. 26.

163 Expenses. U.K.

There shall be paid out of moneys provided by Parliament—

(a) any expenses incurred by any Minister under or in consequence of the provisions of this Act;

(b) any increase attributable to any of the provisions of this Act in the sums so payable under any other Act.

164 Application to Northern Ireland. U.K.

(1) The provisions of this Act set out in Part I of Schedule 17 to this Act shall extend to Northern Ireland subject to the modifications set out in Part II of that Schedule, but save as aforesaid this Act shall not extend to Northern Ireland.

(2) F534

Textual Amendments

F534 S. 164(2) repealed by Northern Ireland Constitution Act 1973 (c. 36, SIF 29:3), **Sch. 6 Pt. I**

165 . . . . . F535 E+W+S

Textual Amendments

F535 S. 165 repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

166 Short title and commencement. U.K.

(1) This Act may be cited as the Transport Act 1968.

(2) Section 93 of this Act shall come into force on the passing of this Act and the other provisions of this Act shall come into force on such day as, subject to subsection (3) of this section, the Minister may by order appoint, and different days may be appointed for different purposes and different provisions of this Act.

(3) The reference to the Minister in subsection (2) of this section shall be construed—

(a) in relation to—

(i) the provisions of Part II of this Act; and

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(ii) any of the following provisions of this Act, namely, sections 34, 36, 37, 44, 56, 116 to 119, 121, 122 and 126 to 130; and

(iii) the bringing into force with respect to the Scottish Group of any provision of this Act which refers to that Group,

as a reference to the Minister and the Secretary of State acting jointly;

(b) in relation to section 131 of this Act and to any section of this Act which relates only to Scotland, as a reference to the Secretary of State.

Modifications etc. (not altering text)

C131 Power of appointment conferred by s. 166(2) not fully exercised

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SCHEDULES

SCHEDULE 1 U.K.

Sections 1 and 24.

THE NEW AUTHORITIES

1 . . . . . F536

Textual Amendments

F536 Sch. 1 para. 1, Sch. 3 repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

2 The Bus Company shall consist of—

(a) a chairman appointed by the Minister; and

(b) not more than ten nor less than five other members appointed by the Minister after consultation with the chairman.

3 The Scottish Group shall consist of—

(a) a chairman appointed by the Secretary of State; and

(b) not more than ten nor less than five other members appointed by the Secretary of State after consultation with the chairman.

4 The chairman and other members of each of the new authorities shall be appointed from among persons who appear to the Minister or, as the case may be, the Secretary of State to have had wide experience of, and to have shown capacity in, transport, industrial, commercial or financial matters, applied science, administration or the organisation of workers.

5 In appointing the chairman and other members of any of the new authorities the Minister or, as the case may be, the Secretary of State shall have regard to the desirability of having members who are familiar with the special requirements and circumstance of particular regions and areas served by the authority in question. . . F537

Textual Amendments

F537 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

6 The provisions of Part I of Schedule 1 to the Act of 1962 (which relate to the constitution and proceedings, and to the members, of the Boards) shall have effect as if each of the new authorities were one of the Boards, but in relation to the Scottish Group as if for any reference therein to the Minister there were substituted a reference to the Secretary of State.

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SCHEDULE 2 U.K.

Sections 3 and 27.

COMMENCING CAPITAL DEBTS OF NEW AUTHORITIES

1 Each of the new authorities shall severally assume a commencing capital debt due to the Minister of such amount respectively as the Minister may by order prescribe; and subsections (6) and (8) of section 39 of the Act of 1962 shall apply to that debt as they apply to the commencing capital debts of the Boards.

2 For the purposes of any period between the day appointed under section 166(2) of this Act for the purposes of the application to any of the new authorities of paragraph 1 of this Schedule, and the date of the making of the order with respect to that authority under that paragraph the Minister may estimate what the commencing capital debt of that authority is likely to be and require that authority to make to him provisional payments by way of interest on the estimated amount; and those provisional payments shall be on account of the payments of interest becoming due under section 39(6) of the Act of 1962 as applied by that paragraph.

3 Without prejudice to section 53(5) of this Act, the Minister may from time to time by order vary any of the amounts prescribed under paragraph 1 of this Schedule **[**F538or in the case of the Freight Corporation, its commencing capital debt as determined by or under any enactment for the time being in force, where that appears to him to be expedient to take account**]**—

(b) of any transfer of property, rights and liabilities under section 7(5) or (6) or 8(4) of this Act;

and any such order may contain such transitional provisions as appear to the Minister expedient to take account any interest underpaid or overpaid on the commencing capital debt of the authority in question;. . . F539

Textual Amendments

F538 Words substituted by Transport Act 1978 (c. 55), **s. 15(5)(c)**

F539 Words repealed by Transport Act 1978 (c. 55), **Sch. 4**

4 The Minister's power to make an order under paragraph 1 or 3 of this Schedule shall be subject to the approval of the Treasury and any such order shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

5 In the application of this Schedule or section 39(6) and (8) of the Act of 1962 to the Scottish Group, any reference therein to the Minister shall be construed as a reference to the Secretary of State.

F540SCHEDULE 3 U.K.

Textual Amendments

F540 Sch. 1 para. 1, Sch. 3 repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

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SCHEDULE 4 U.K.

Sections 4, 5, 7, 8, 17, 28, 29 and 53.

Supplementary Provisions as to certain Transfers of Property, Rights and Liabilities

Modifications etc. (not altering text)

C132 Sch. 4 extended by Transport Act 1978 (c. 55), **s. 15(3)** and extended with modifications by London Regional Transport Act 1984 (c. 32, SIF 126), **ss. 27(8)**, 46(6), 47(8)
C133 Sch. 4 extended (with modifications) (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 85(5)–(7)**
C134 Sch. 4 applied (with modifications) (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 129(3)–(5)**
C135 Sch. 4 amended (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 139(1), **Sch. 6 para. 26**
C136 Sch. 4 applied (E.W.S.) by Airports Act 1986 (c. 31, SIF 9), **s. 75(3)–(6)**
C137 Power to modify Sch. 4 conferred (E.W.S.) by Airports Act 1986 (c. 31, SIF 9), **s. 75(5)**
C138 Sch. 4 modified (E.W.S.) by S.I. 1985/1903, **art. 3 Sch. 1** and S.I. 1986/1801 art. 3
C139 Sch. 4 applied (with modifications) by Transport (Scotland) Act 1989 (c. 23, SIF 126), **s. 6(3)**
C140 Sch. 4 modified (6.12.1993) by S.I. 1993/2797, art.3, **Sch.**

Allocation of property, rights and liabilities

1 (1) The provisions of this paragraph shall have effect where a transfer to which this Schedule applies is a transfer of all property, rights and liabilities comprised in a specified part of the transferor's undertaking, but shall not apply to any such rights or obligations under an agreement for the rendering of personal services.

(2) Any property, rights or liabilities held or subsisting partly for the purpose of a part of the transferor's undertaking which is transferred and partly for the purpose of a part of that undertaking which is retained by the transferor shall, where the nature of the property, rights or liability permits, be divided or apportioned between the transferor and the transferee in such proportions as may be appropriate; and, where any estate or interest in land falls to be so divided, any rent payable under a lease in respect of that estate or interest, and any rent charged on that estate or interest, shall be correspondingly apportioned or divided so that the one part is payable in respect of, or charged on, only one part of the estate or interest and the other part is payable in respect of, or charged on, only the other part of the estate or interest.

(3) Sub-paragraph (2) of this paragraph shall apply, with any necessary modifications, in relation to any feuduty payable in respect of an estate or interest in land in Scotland as it applies in relation to any rent charged on an estate or interest in land.

(4) Any property, rights or liabilities held or subsisting as mentioned in sub-paragraph (2) of this paragraph the nature of which does not permit their division or apportionment as so mentioned shall be transferred to the transferee or retained by the transferor according to which of them appear at the transfer date likely to make use of the property, or, as the case may be, to be affected by the right or liability, to the greater extent, subject to such arrangements for the protection of the other of them as may be agreed between them or, if either of them is, or on a vesting by virtue of this Act will become, a wholly-owned subsidiary of some other body, as may be agreed between them and that other body.

(5) It shall be the duty of the transferor and the transferee, whether before or after the transfer date, so far as practicable to arrive at such written agreements, and to execute such other instruments, as are necessary or expedient to identify or define

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the property, rights and liabilities transferred to the transferee or retained by the transferor and as will—

(a) afford to the transferor and the transferee as against one another such rights and safeguards as they may require for the proper discharge of their respective functions; and

(b) make as from such date, not being earlier than the transfer date, as may be specified in that agreement or instrument such clarifications and modifications of the division of the transferor's undertaking as will best serve the proper discharge of the respective functions of the transferor and the transferee;

and if either the transferor or the transferee is, or on a vesting by virtue of this Act will become, a wholly-owned subsidiary of some other body, references in the foregoing provisions of this sub-paragraph to the transferor or, as the case may be, the transferee shall include references to that other body.

(6) Any such agreement shall provide so far as it is expedient—

(a) for the granting of leases and for the creation of other liabilities and rights over land whether amounting in law to interests in land or not, and whether involving the surrender of any existing interest or the creation of a new interest or not;

(b) for the granting of indemnities in connection with the severance of leases and other matters;

(c) for responsibility for registration of any matter in any description of statutory register.

(7) If the transferor or the transferee (not being in either case a wholly-owned subsidiary of some other body), or any body of which the transferor or the transferee is, or on a vesting by virtue of this Act will become, a wholly-owned subsidiary, represents to the Minister, or if it appears to the Minister without such a representation, that it is unlikely in the case of any matter on which agreement is required under sub-paragraph (5) of this paragraph that such agreement will be reached, the Minister may, whether before or after the transfer date, give a direction determining the manner in which the property, rights or liabilities in question are to be divided between the transferor and the transferee, and may include in the direction any provision which might have been included in an agreement under the said sub-paragraph (5); and any property, rights or liabilities required by the direction to be transferred to the transferee shall be regarded as having been transferred to, and by virtue of this Act vested in, the transferee accordingly.

Rights and liabilities under agreement for rendering of personal services

2 (1) The provisions of this paragraph shall have effect where any rights and liabilities transferred under a transfer to which this Schedule applies are rights and liabilities under an agreement for the rendering of personal services.

(2) Where the transfer is of all property, rights and liabilities comprised in a specified part of the transferor's undertaking, the rights and liabilities under any agreement for the rendering of personal services by any person (hereafter in this paragraph referred to as "an employee") shall be transferred only if immediately before the transfer date the employee is employed wholly or mainly for the purposes of the part of the transferor's undertaking which is transferred.

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(3) The transferor, the transferee or the employee may apply to the Minister to determine whether or not rights and liabilities in respect of the employee's services under any particular agreement are transferred, and the Minister's decision on the application shall be final.

(4) Any right to services transferred shall have effect on and after the transfer date as a right not only to the services to which the agreement relates but also to any reasonably comparable services under the transferee to be selected by the transferee; and any dispute between the transferee and the employee as to what are reasonably comparable services for the purposes of this sub-paragraph may be reported to the Secretary of State for Employment and Productivity by the transferee and, if a dispute so reported is not otherwise disposed of, that Secretary of State shall refer it for determination by the industrial court.

Right to production of documents of title

3 Where on any transfer to which this Schedule applies the transferor is entitled to retain possession of any documents relating in part to the title to, or to the management of, any land or other property transferred to the transferee, the transferor shall be deemed to have given to the transferee an acknowledgement in writing of the right of the transferee to production of that document and to delivery of copies thereof; and, in England and Wales, section 64 of the [M88]Law of Property Act 1925 shall have effect accordingly, and on the basis that the acknowledgment did not contain any such expression of contrary intention as is mentioned in that section.

Marginal Citations
M88 1925 c. 20.

Perfection of vesting of certain property or rights

4 Where in the case of any transfer to which this Schedule applies any property or rights which fall to be transferred to the transferee cannot be properly vested in the transferee by virtue of this Act because transfers thereof are governed otherwise than by the law of a part of Great Britain, the transferor shall take all practicable steps for the purpose of securing that the ownership of the property or, as the case may be, the right is effectively transferred.

Proof of title by certificate

5 In the case of any transfer to which this Schedule applies, a joint certificate. . . [F541] by or on behalf of the Railways Board and the Scottish Group, that any property specified in the certificate, or any such interest in or right over any such property as may be so specified, or any right or liability so specified, is by virtue of this Act for the time being vested in, or in such wholly-owned subsidiary of, such one of the certifying authorities as may be so specified shall be conclusive evidence for all purposes of that fact; and if on the expiration of one month after a request from one of those authorities for the preparation of such a joint certificate as respects any property, interest, right or liability, the authorities concerned have failed to agree

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on the terms of the certificate, they shall refer the matter to the Minister and issue the certificate in such terms as the Minister may direct.

Textual Amendments

F541 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

Restrictions on dealing with certain land

6 If the Minister is satisfied on the representation of the Railways Board,. . . [F542] or the Scottish Group that, in consequence of a transfer to which this Schedule applies, different interests in land, whether the same or different land, are held by, or by a wholly-owned subsidiary of, that authority and by, or by a wholly-owned subsidiary of, another of those authorities and that the circumstances are such that this paragraph should have effect, the Minister may direct that this paragraph shall apply to such of that land as may be specified in the direction, and while that direction remains in force—

(a) none of those authorities or their subsidiaries entitled to any interest in any of the specified land shall dispose of that interest except with the consent of the Minister;

(b) if in connection with any proposal to dispose of an interest of one of those authorities or their subsidiaries in any of the specified land it appears to the Minister to be necessary or expedient for the protection of any other of them, the Minister may—

(i) require any of those authorities or their subsidiaries entitled to an interest in any of the specified land to dispose of that interest to such person and in such manner as may be specified in the requirement; or

(ii) require any of those authorities or their subsidiaries to acquire from any other of them any interest in any of the specified land to which that other authority or subsidiary is entitled; or

(iii) consent to the proposed disposal subject to compliance with such conditions as the Minister may see fit to impose;

but a person other than one of those authorities or their subsidiaries dealing with, or with a person claiming under, one of those authorities or subsidiaries shall not be concerned to see or inquire whether this paragraph applies or has applied in relation to any land to which the dealing relates or as to whether the provisions of this subsection have been complied with in connection with that or any other dealing with that land, and no transaction with or between persons other than those authorities or subsidiaries shall be invalid by reason of any failure to comply with those provisions.

Textual Amendments

F542 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

Construction of agreements, statutory provisions and documents

7 Where in the case of any transfer to which the Schedule applies any of the rights or liabilities transferred are rights or liabilities under an agreement to which the

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transferor was a party immediately before the transfer date, whether in writing or not, and whether or not of such nature that rights and liabilities thereunder could be assigned by the transferor, that agreement shall have effect on and after the transfer date as if—

(a) the transferee had been a party to the agreement, and

(b) for any reference (however worded and whether express or implied) to the transferor there were substituted, as respects anything falling to be done on or after the transfer date, a reference to the transferee, and

(c) any reference (however worded and whether express or implied) to any officer or any servant of the transferor were, as respects anything falling to be done on or after the transfer date, a reference to such person as the transferee may appoint or, in default of appointement, to the officer or servant of the transferee who corresponds as nearly as may be to that officer or servant of the transferor, and

(d) where the agreement refers to property, rights or liabilities which fall to be apportioned or divided between the transferor and the transferee, as if the agreement constituted two separate agreements separately enforceable by and against the transferor and the transferee respectively as regards the part of the property, rights and liabilities retained by the transferor or, as the case may be, the part thereof vesting in the transferee and not as regards the other part;

and sub-paragraph (d) of this paragraph shall apply in particular to the covenants, stipulations and conditions of any lease by or to the transferor.

8 Save as otherwise provided by any provision of this Act (whether expressly or by necessary implication) paragraph 7 of this Schedule, except sub-paragraph (a) thereof, shall apply in relation to any statutory provision, any provision of any agreement to which the transferor was not a party, and any provision of any document other than an agreement, if and so far as the provision in question relates to any of the transferred rights and liabilities, as it applies in relation to an agreement to which the transferor was a party, and, in relation to any such statutory or other provision as aforesaid, references in sub-paragraphs (b) and (c) of that paragraph to the transferor and to any officers or servants of the transferor include references made by means of a general reference to a class of persons of which the transferor is one, without the transferor himself being specifically referred to.

9 On and after the transfer date for any transfer to which this Schedule applies, any statutory provision to which paragraph 2(3) of Schedule 6 to the Act of 1962 applies if and so far as the provision in question relates to any of the transferred rights and liabilities, shall have effect as if—

(a) any of the references modified by paragraph (a) of the said paragraph 2(3) were, as respects anything falling to be done on or after the transfer date, a reference to such person as the transferee may appoint, and

(a) any of the references modified by paragraph (b) of the said paragraph 2(3) were, as respects a period beginning with the transfer date, a reference to so much of the undertaking of the transferee as corresponds as mentioned in the said paragraph (b).

10 Without prejudice to the generality of the provisions of paragraphs 7 to 9 of this Schedule, the transferee under a transfer to which this Schedule applies and any other person shall, as from the transfer date, have the same rights, powers and remedies (and in particular the same rights and powers as to the taking or resisting of legal proceedings or the making or resisting of applications to any authority)

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for ascertaining, perfecting or enforcing any right or liability transferred to and vested in the transferee by virtue of this Act as he would have had if that right or liability had at all times been a right or a liability of the transferee, and any legal proceedings or applications to any authority pending on the transfer date by or against the transferor, in so far as they relate to any property, right or liability transferred to the transferee by virtue of this Act, or to any agreement or enactment to any such property, right or liability, shall be continued by or against the transferee to the exclusion of the transferor.

11 If, in the case of any transfer to which this Schedule applies the effect of any agreement, and in particular any agreement under the Railway Road Transport Acts of 1928 mentioned in paragraph 1 of Part II of Schedule 2 to the Act of 1962, which was executed before the passing of this Act and to which the transferee is by virtue of this Act a party depends on whether the transferee has power to carry on any activity, it shall be assumed for the purposes of the agreement that any activity which requires the consent of the Minister under the Act of 1962 or this Act has been authorised by such a consent.

12 (1) References in paragraphs 7 to 11 of this Schedule to agreements to which the transferor was a party and to statutory provisions include in particular references to agreements to which the transferor became a party by virtue of the Act of 1962 and statutory provisions which applied to the transferor by virtue of that Act.

(2) The provisions of the said paragraphs 7 to 11 shall have effect for the interpretation of agreements, statutory provisions and other instruments subject to the context, and shall not apply where the context otherwise requires.

Third parties affected by vesting provisions

13 (1) Without prejudice to the provisions of paragraphs 7 to 12 of this Schedule, any transaction effected between a transferor and a transferee in pursuance of paragraph 1(5) or of a direction under paragraph 1(7) of this Schedule shall be binding on all other persons, and notwithstanding that it would, apart from this sub-paragraph, have required the consent or concurrence of any other person.

(2) It shall be the duty of the transferor and transferee, if they effect any transaction in pursuance of the said paragraph 1(5) or a direction under the said paragraph 1(7), to notify any person who has rights or liabilities which thereby become enforceable as to part by or against the transferor and as to part by or against the transferee, and if such a person applies to the Minister and satisfies him that the transaction operated unfairly against him the Minister may give such directions to the transferor and the transferee as appear to him appropriate for varying the transaction.

(3) If in consequence of a transfer to which this Schedule applies or of anything done in pursuance of the provisions of this Schedule the rights or liabilities of any person other than one of the Boards or new authorities or a wholly-owned subsidiary thereof which were enforceable against or by the transferor become enforceable as to part against or by the transferor and as to part against or by the transferee, and the value of any property or interest of that person is thereby diminished, such compensation as may be just shall be paid to that person by the transferor, the transferee or both, and any dispute as to whether and if so how much compensation is so payable, or as to the person to whom it shall be paid, shall be referred to and determined by an arbitrator appointed by the Lord Chancellor or, where the proceedings are to be held in Scotland, by an arbiter appointed by the Lord President of the Court of Session.

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(4) Where the transferor or the transferee under a transfer to which this Schedule applies purports by any conveyance or transfer to transfer to some person other than one of the Boards or new authorities or a wholly-owned subsidiary thereof for consideration any land or any other property which before the transfer date belonged to the transferor, or which is an interest in property which before that date belonged to the transferor, the conveyance or transfer shall be as effective as if both the transferor and the transferee had been parties thereto and had thereby conveyed or transferred all their interest in the property conveyed or transferred.

(5) If at any stage of any court proceedings to which the transferor or transferee under a transfer to which this Schedule applies and a person other than one of the Boards or new authorities or a wholly-owned subsidiary thereof are parties, it appears to the court that the issues in the proceedings depend on the identification or definition of any of the property, rights or liabilities transferred which the transferor and the transferee have not yet effected, or to raise a question of construction on the relevant provisions of this Act which would not arise if the transferor and the transferee constituted a single person, the court may, if it thinks fit on the application of a party to the proceedings other than such a body as aforesaid, hear and determine the proceedings on the footing that such one of the transferor and the transferee as is a party to the proceedings represents and is answerable for the other of them, and that the transferor and the transferee constitute a single person, and any judgment or order given by the courts, shall bind both the transferor and the transferee accordingly.

(6) It shall be the duty of the transferor and the transferee under any transfer to which this Schedule applies to keep one another informed of any case where either of them may be prejudiced by sub-paragraph (4) or (5) of this paragraph, and if either the transferor or the transferee claims that he has been so prejudiced and that the other of them ought to indemnify or make a payment to him on that account and has unreasonably failed to meet that claim, he may refer the matter to the Minister for determination by the Minister.

SCHEDULE 5 U.K.

Section 9.

PASSENGER TRANSPORT AUTHORITIES AND EXECUTIVES

[F543[F544PART I U.K.

Textual Amendments

F543 Sch. 5 Pt. I repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 21(1), **Sch. 8**

F544 Sch. 5 Pt. I repealed (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

The Authority

1 The Authority established for a designated area under an order made under section 9(1) of this Act shall consist of—

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(a) such number of members appointed respectively by such of the councils of constituent areas, or by such two or more of those councils acting jointly, as may be specified in the order;

[F545(b) such number of members not exceeding one-sixth of the aggregate number of the members appointed under sub-paragraph (a) of this paragraph as the Minister may see fit to appoint from among persons appearing to him to have special knowledge or experience which would be of value to the Authority in the exercise of their functions;**]**

and the chairman of the Authority shall be such one of their number as the members of the Authority may **[**F546with the approval of the Minister**]** appoint.

Textual Amendments

F545 Para 1(b) repealed (E.W.) by Local Government Act 1972 (c. 70), **Sch. 30**

F546 Words repealed (E.W.) by Local Government Act 1972 (c. 70), **Sch. 30**

2 If and to such extent as it appears to him appropriate so to do, the Minister may, in determining the council or councils by whom members of the Authority are to be appointed under paragraph 1(a) of this Part of this Schedule, take into account the product of a rate of **[**F547one new penny**]** in the pound for so much of the respective areas of the councils of constituent areas as falls within the designated area.

Textual Amendments

F547 Words substituted by Decimal Currency Act 1969 (c. 19), **Sch. 2 para. 31** in relation to anything falling to be done after 31.3.1971

3 A person may be appointed as a member of the Authority for a designated area under the said paragraph 1(a) whether or not he is a member of the council or one of the councils by whom he is so appointed; but no person who is for the time being a member, officer or servant of the Executive for that designated area or who is for the time being a servant of a subsidiary of that Executive shall be appointed as a member of the Authority, and any person appointed to be a member of the Authority who subsequently becomes a member, officer or servant of that Executive or a servant of such a subsidiary shall forthwith vacate his membership of the Authority.

4 A person who at the date of his appointment as a member of the Authority under the said paragraph 1(a) was a member of the council or one of the councils by whom he was so appointed but who subsequently ceases to be a member of that council shall upon so ceasing also vacate office as a member of the Authority but shall be eligible for re-appointment.

5 If at any time not less than three months after the coming into force of the order under section 9(1) of this Act providing for the establishment of the Authority, or after a vacancy has arisen among the members of the Authority which falls to be filled by an appointment made under the said paragraph 1(a), the initial appointment of any member of the Authority falling to be made as aforesaid, or, as the case may be, an appointment to fill that vacancy, has not been made, the Minister, after consultation with the council or councils by whom the appointment falls to be made, may himself make the appointment on their behalf.**]]**

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PART II U.K.

The Executive

[F548] The first persons to be appointed as the Director General or other members of the Executive for a designated area shall be appointed by the Authority for that area as soon as practicable after the [F549]establishment of that Authority.][F549]area has been designated].]

Textual Amendments

F548 Sch. 5 Pt. II para. 1 repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 21(2)**(*a*), Sch. 8

F549 Words "area" to "designated" substituted (S.) for words "establishment of that Authority" by Local Government (Scotland) Act 1973 (c. 65), **Sch. 18 para. 21(2)**

2 No person who is for the time being a member of [F550]the Authority for the passenger transport area][F550]the regional council for the [F551]passenger transport] area] shall be appointed as a member of the Executive, and any person appointed to be a member of the Executive who subsequently becomes a member of [F550]the Authority for the passenger transport area][F550]the regional council for the [F551]passenger transport] area] shall forthwith vacate his membership of the Executive.

Textual Amendments

F550 Words "the regional" to "area" substituted (S.) for words "the Authority" to "area" (as substituted by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 21(2)**(*b*)) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 18 para. 21(2)**

F551 Words substituted by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 21(2)**(*c*)

3 (1) Subject to paragraph 2 of this Part of this Schedule a member of the Executive shall hold and vacate his office in accordance with the terms of his appointment by the Authority and shall, on ceasing to be a member, be eligible for reappointment.

(2) Any member of the Executive may at any time by notice in writing to the Authority resign his office.

4 The Executive shall pay to or in respect of the members thereof such remuneration, allowances and pensions as the Authority may determine.

5 . . . . . [F552]

Textual Amendments

F552 Sch. 5 Pt. II para. 5 repealed by Superannuation Act 1972 (c. 11, SIF 101A:1), s. 29(4), **Sch. 8**

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PART III U.K.

Matters which may be dealt with by order under s. 9(1)

[F553 1 The fixing and notification of the [F554dates on which the Authority and Executive respectively are][F554date on which the Executive is] to be established.F555]

Textual Amendments

F553 Sch. 5 Pt. III para. 1 repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 21(3)**(*a*), Sch. 8

F554 Words "date" to "is" substituted (S.) for words "dates" to "are" by Local Government (Scotland) Act 1973 (c. 65), **Sch. 18 para. 21(3)**

F555 Para 2 repealed (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 21(3)**(*a*), Sch. 8

2 The incorporation of the Authority.

3 The appointment—

[F556[F557(a) in accordance with Part I of this Schedule of members of the Authority; and]]

(b) by the Authority in accordance with [F558section 9(1)(b)][F558section 9(2)] of this Act and Part II of this Schedule of members of the Executive.

Textual Amendments

F556 Para. 3(*a*) repealed (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 21(3)**(*a*), Sch. 8

F557 Sch. 5 Pt. III para. 1 repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 21(3)**(*a*), Sch. 8

F558 "9(2)" substituted (E.W.S.). for "9(1)(*b*)" by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 21(3)**

[F559 4 The terms on which and period for which the members of the Authority are to hold office, and the vacation of office by those members.]

Textual Amendments

F559 Sch. 5 paras. 4, 5 repealed (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 21(3)**(*a*), Sch. 8

[F560 5 The payment of allowances to, or to any class of, members of the Authority, and the payment of remuneration to the chairman of the Authority.]

Textual Amendments

F560 Sch. 5 paras. 4, 5 repealed (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 21(3)**(*a*), Sch. 8

6 The proceedings of [F561the Authority and] the Executive [F561respectively].

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Textual Amendments

F561 Words repealed (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 21(3)**(*b*)

7 The establishment by **[**F562the Authority and**]** the Executive **[**F562respectively**]** of committees and the composition of those committees, including the establishment of advisory committees consisting wholly or partly of persons who are not members of the Authority or Executive.

Textual Amendments

F562 Words repealed (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 21(3)**(*b*)

8 The delegation of functions by **[**F563the Authority or**]** the Executive to a committee or to **[**F563the chairman of the Authority or, as the case may be,**]** the Director General of the Executive.

Textual Amendments

F563 Words repealed (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 21(3)**(*c*), Sch. 8

9 The authentication of documents of **[**F564the Authority and**]** the Executive **[**F564respectively**]** and provision for the treatment of such documents as evidence, and in Scotland sufficient evidence, of such facts as may be specified by the order.

Textual Amendments

F564 Words repealed (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 21(3)**(*b*)

[F565 10 The appointment by, or provision by the Executive for, the Authority of officers and servants, and the payment of remuneration and allowances to any officers and servants appointed by the Authority.**]**

Textual Amendments

F565 Para. 10 repealed (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and repealed (E.W.S.) by Transport Act 1985 (c.67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 21(3)**(*a*), Sch. 8

11 Provision—

(a) for treating **[**F566the Authority or**]** any subsidiary of the Executive for the purposes of pensions to or in respect of persons who are or have been employed by them as if they were the Executive for a **[**F567designated**]****[**F567passenger transport**]** area;

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(b) as to the fund in the benefits of which any persons who are or have been employed by **[**F566the Authority**]** the Executive or a subsidiary of the Executive are to be entitled to participate;

[F568(c) for the transfer to the authority administering that fund in relation to any such persons, instead of to the Executive, of any other fund in the benefits of which those persons are entitled to participate which would otherwise fall to be transferred to the Executive by an order under section 17 of this Act.**]**

Textual Amendments

F566 Words repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 21(3)**(*d*), Sch. 8

F567 Words "passenger transport" substituted (E.W.S.) for "designated" by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 2**(*b*)

F568 Sch. 5 para. 11(*c*) repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 21(3)**(*a*), Sch. 8

[F569 12 The provision of accommodation for the Authority by the Authority or by the Executive.**]**

Textual Amendments

F569 Para. 12 repealed (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and repealed (E.W.S.) by Transport Act 1985 (c.67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 21(3)**(*a*), Sch. 8

13 Provision applying, with or without modifications, to **[**F570the Authority or**]** the Executive, or to persons who are or have been members of **[**F570the Authority or**]** the Executive, or officers or servants of **[**F570the Authority**]**, the Executive or any subsidiary of the Executive, any enactment or instrument made under an enactment relating, as the case may be, to, or to persons who are or have been members of, or officers or servants of, local authorities or local authorities of a particular description.

Textual Amendments

F570 Words repealed (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and repealed (E.W.S.) by Transport Act 1985 (c.67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 21(3)**(*e*), Sch. 8

[F571 14 The making of reports and the furnishing of information by the Authority and Executive to the Minister.**]**

Textual Amendments

F571 Para. 14 repealed (E.W.) (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and Local Government Act 1974 (c. 7), **Sch. 8**

15 Any particular matters to be dealt with in the annual report of the Authority and the Executive under section 16 of this Act.

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[F572 16 Provision for the person or persons by whom a member of the Authority is appointed to appoint also a deputy to act in that member's place at any meeting of the Authority from which that member is absent, and for applying in relation to any such deputy, with or without modifications, any provision with respect to members of the Authority made by this Act or by the order.**]**

Textual Amendments

F572 Sch. 5 paras. 16, 17 repealed (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 21(3)**(*a*), Sch. 8

17 Provision, as respects any period before the Authority appoint or are provided with their own officers and servants, for the discharge of functions of officers or servants of the Authority (including the convening of the first meeting of the Authority) by such officers or servants of such of the councils of constituent areas as may be determined in accordance with the order.

SCHEDULE 6 E+W+S

. . . F573

Textual Amendments

F573 Sch. 6 repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 1, **Sch. 8**

SCHEDULE 7 U.K.

Section 28.

BODIES WHOSE SECURITIES ARE TRANSFERRED TO BUS COMPANY

Aldershot and District Traction Company Limited.

Amalgamated Passenger Transport Limited.

Bath Electric Tramways Limited.

Bath Tramways Motor Company Limited.

The Birmingham and District Investment Trust Limited.

The Birmingham and Midland Motor Omnibus Company Limited.

Brighton, Hove and District Omnibus Company Limited.

Bristol Commercial Vehicles Limited

Bristol Omnibus Company Limited.

British Transport Advertising Limited.

The City of Oxford Motor Services Limited.

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Cheltenham District Traction Company.

Crosville Motor Services Limited.

Cumberland Motor Services Limited.

The Devon General Omnibus and Touring Company Limited.

Durham District Services Limited.

East Kent Road Car Company Limited.

East Midland Motor Services Limited.

East Yorkshire Motor Services Limited.

Eastern Coach Works Limited.

Eastern Counties Omnibus Company Limited.

The Eastern National Omnibus Company Limited.

Greenslades Tours Limited.

Hants and Dorset Motor Services Limited.

Hebble Motor Services Limited.

Lincolnshire Road Car Company Limited.

London Coastal Coaches Limited.

The Maidstone and District Motor Services Limited.

Mansfield District Traction Company.

The Mexborough and Swinton Traction Company Limited.

The Midland General Omnibus Company Limited.

Neath and Cardiff Luxury Coaches Limited.

North Western Road Car Company Limited.

The Northern General Transport Company Limited.

Nottinghamshire and Derbyshire Traction Company.

Newbury and District Motor Services Limited.

Otley Omnibus Stations Limited.

Park Royal Vehicles Limited.

The Potteries Motor Traction Company Limited.

Red and White Services Limited.

The Rhondda Transport Company Limited.

Ribble Motor Services Limited.

Shamrock and Rambler Motor Coaches Limited.

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South Midland Motor Services Limited.

The South Wales Transport Company Limited.

Southdown Motor Services Limited.

The Southern National Omnibus Company Limited.

The Southern Vectis Omnibus Company Limited.

T.H.C. Bus Nominees Limited.

The Thames Valley Traction Company Limited.

Thomas Brothers (Port Talbot) Limited.

Throughways Transport Limited.

Tillings Transport (T.H.C.) Limited.

A. Timpson and Sons Limited.

Trent Motor Traction Company Limited.

United Automobile Services Limited.

United Counties Omnibus Company Limited.

United Welsh Services Limited.

West Riding Automobile Company Limited.

West Yorkshire Road Car Company Limited.

The Western National Omnibus Company Limited.

Western Welsh Omnibus Company Limited.

Wilts and Dorset Motor Services Limited.

The Yorkshire Traction Company Limited.

Yorkshire Woollen District Transport Company Limited.

[[F574]London Country Bus Services Limited.**]**

Textual Amendments
F574 Words added by S.I. 1968/1980, **art. 2**

SCHEDULE 8 E+W+S

Section 32.

NEW BUS GRANTS—SUPPLEMENTARY PROVISIONS

1 Any person who for the purpose of an application for a grant under section 32 of this Act knowingly or recklessly makes any statement or produces any document which is false in a material particular shall be guilty of an offence and liable—

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(a) on summary conviction to a fine not exceeding £400; or

(b) on conviction on indictment to a fine, or to imprisonment for a term not exceeding two years, or to both.

2 The Minister may by notice require any person who has received a grant under the said section 32, and any person acting on his behalf, to furnish to the Minister such information, or to produce for examination on behalf of the Minister such books, records or other documents, as may be specified in the notice for the purpose of enabling the Minister to determine whether any condition subject to which the grant is made is satisfied or is being complied with or whether the grant has become repayable in whole or in part in accordance with any such condition.

3 A notice under paragraph 2 of this Schedule may require the information to which it relates to be furnished within such time as may be specified in the notice, and may require the documents to which it relates to be produced at such time and place as may be so specified; but the time specified in such a notice for furnishing any information or producing any document shall not be earlier than the end of the period of twenty-eight days beginning with the service of the notice.

4 A notice under paragraph 2 of this Schedule may be served—

(a) by delivering it to the person on whom it is to be served;

(b) by leaving it at the usual or last known place of abode of that person;

(c) by sending it by registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode; or

(d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it by registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.

5 Any person who, in purported compliance with a notice under paragraph 2 of this Schedule, knowingly or recklessly makes any statement or produces any document which is false in a material particular shall be guilty of an offence and liable—

(a) on summary conviction to a fine not exceeding £400; or

(b) on conviction on indictment to a fine, or to imprisonment for a term not exceeding two years, or to both.

6 Any person who without reasonable excuse fails to comply with a notice under paragraph 2 of this Schedule shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100 or, on a second or subsequent conviction, £400.

7 Any person who without reasonable excuse fails to comply with any condition subject to which a grant was made to him under the said section 32 requiring him to inform the Minister of any event whereby the grant becomes repayable in whole or in part shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding £400; or

(b) on conviction on indictment, to a fine.

8 . . . . . F575

Textual Amendments

F575 Sch. 8 para. 8 repealed by Criminal Law Act 1977 (c. 45, SIF 39:1), **Sch. 13**

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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9 Summary proceedings in Scotland for an offence under paragraph 7 of this Schedule shall not be commenced after the expiration of three years from the commission of the offence, but subject to the foregoing limitation and notwithstanding anything in **[**F576section 331 of the M89Criminal Procedure (Scotland) Act 1975**]** such proceedings may be commenced at any time within twelve months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify the proceedings comes to his knowledge or, where such evidence was reported to him by the Minister, within twelve months after the date on which it came to the Minister's knowledge; and **[**F576subsection (3) of the said section 331**]** shall apply for the purposes of this paragraph as it applies for the purposes of that section.

Textual Amendments

F576 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **s. 460(1)(b)**

Marginal Citations

M89 1975 c. 21.

10 For the purposes of paragraphs 8 and 9 of this Schedule, a certificate of the Minister, **[**F577the Director of Public Prosecutions**]** or the Lord Advocate, as the case may be, as to the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact.

Textual Amendments

F577 Words repealed (E.W.) by Prosecution of Offences Act 1985 (c. 23, SIF 39:1), s. 31(6), **Sch. 2**

11 (1) Where an offence under this Schedule committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) In the foregoing sub-paragraph "director", in relation to a body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

[F578SCHEDULE 8A E+W+S

TRANSFER OF OPERATING CENTRES**]**

Textual Amendments

F578 Sch. 8A inserted (*prosp.*) by 1994 c. 40, ss. 50(2), 82, **Sch. 12**

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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Applications for new licences

F579 1 (1) Where in the case of any application for an operator's licence—

(a) the requirements of sub-paragraphs (2) to (5) of this paragraph are satisfied at the time when the application is made; and

(b) the applicant so requests,

the licensing authority may direct that paragraph 2 of this Schedule is to apply in relation to the application.

(2) Each place referred to in the statement under section 69A(2) of this Act as a proposed operating centre of the applicant must already be specified in an operator's licence as an operating centre of its holder.

(3) That licence must be the same in the case of each such place, and no such place may be specified in more than the one operator's licence.

(4) Where any conditions under section 64B or 69C of this Act relating to any such place are attached to that licence, the applicant must have consented to conditions in the same terms being attached to the licence he is applying for.

(5) Where any undertakings relating to any such place are recorded in that licence, undertakings in the same terms must have been given by the applicant (or have been procured by him to be given) for the purposes of the application.

(6) In determining whether to give a direction under this paragraph, the licensing authority shall take account of whether any new adverse effects on environmental conditions are likely to arise from the use as an operating centre of the applicant of any such place (and may take account of any other matters he considers relevant).

(7) In this paragraph "operator's licence" does not include a licence granted under section 67A of this Act, and the reference in sub-paragraph (2) to a place being specified in an operator's licence does not include a place being so specified—

(a) by virtue of an interim direction such as is mentioned in section 68A of this Act;

(b) if such conditions as may be prescribed in relation to the exercise of the right of any person to appeal against that place being so specified are not satisfied;

(c) if such conditions as may be prescribed in relation to the review under section 69J of this Act of the decision so to specify that place are not satisfied; or

(d) by reason of being situated within a place that is so specified.

Textual Amendments

F579 Sch. 8A inserted (*prosp.*) by 1994 c. 40, ss. 50(2), 82(2), **Sch. 12**

F580 2 (1) The following provisions have effect in relation to any application for an operator's licence in respect of which a direction has been given under paragraph 1 of this Schedule.

(2) The notice published under section 63(1) of this Act shall state that the direction has been given.

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(3) The following provisions of this Act shall not apply—

section 64(3)(c) so far as relating to the suitability of any place specified in the licence for use as an operating centre of the licence-holder;

section 64A(3)(f);

section 69B; and

section 69E.

(4) Notwithstanding anything in section 64(9) of this Act, the licensing authority may refuse the application if—

(a) any statement of fact made by the applicant (or procured by him to be made) for the purposes of the request for the direction under paragraph 1 of this Schedule was false (whether to his knowledge or not); or

(b) any undertaking given or statement of expectation made by the applicant (or procured by him to be given or made) for those purposes has not been fulfilled.

(5) If the application is granted, the licensing authority—

(a) shall attach to the licence issued to the applicant any conditions in respect of which the applicant has consented under paragraph 1(4) of this Schedule; and

(b) shall not attach any other conditions to the licence under section 64B or 69C of this Act.

(6) If the application is granted, the licensing authority shall record in the licence—

(a) any undertakings given or procured to be given under paragraph 1(5) of this Schedule; and

(b) any other undertakings given by the applicant (or procured by him to be given), whether for the purposes of the application or for the purposes of the request for the direction under paragraph 1 of this Schedule, that the licensing authority considers to be material to his decision to give the direction (and that would not otherwise be required by section 64A(4) of this Act to be recorded in the licence).

Textual Amendments

F580 Sch. 8A inserted (*prosp.*) by 1994 c. 40, ss. 50(2), 82(2), **Sch. 12**

F5813 (1) Where in the case of an application for the variation of an operator's licence under section 68 of this Act—

(a) the only direction applied for is one under subsection (1)(g) of that section that one or more new places be specified in the licence as an operating centre of the licence-holder;

(b) the requirements of sub-paragraphs (2) to (5) of this paragraph are satisfied at the time when the application is made; and

(c) the applicant so requests,

the licensing authority may direct that paragraph 4 of this Schedule is to apply in relation to the application.

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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(2) Each new place that is proposed to be specified in the licence must already be specified in another operator's licence as an operating centre of its holder.

(3) That other licence must be the same in the case of each such place, and no such place may be specified in more than the one other operator's licence.

(4) Where any conditions under section 64B or 69C of this Act relating to any such place are attached to that other licence, the applicant must have consented to conditions in the same terms being attached to the licence he is applying to have varied.

(5) Where any undertakings relating to any such place are recorded in that other licence, undertakings in the same terms must have been given by the applicant (or have been procured by him to be given) for the purposes of the application.

(6) In determining whether to give a direction under this paragraph, the licensing authority shall take account of whether any new adverse effects on environmental conditions are likely to arise from the use as an operating centre of the applicant of any such place (and may take account of any other matters he considers relevant).

(7) In this paragraph "operator's licence" does not include a licence granted under section 67A of this Act, and the reference in sub-paragraph (2) to a place being specified in an operator's licence does not include a place being so specified—

(a) by virtue of an interim direction such as is mentioned in section 68A of this Act;

(b) if such conditions as may be prescribed in relation to the exercise of the right of any person to appeal against that place being so specified are not satisfied;

(c) if such conditions as may be prescribed in relation to the review under section 69J of this Act of the decision so to specify that place are not satisfied; or

(d) by reason of being situated within a place that is so specified.

Textual Amendments

F581 Sch. 8A inserted (prosp.) by 1994 c. 40, ss. 50(2), 82(2), **Sch. 12**

F582 4 (1) The following provisions have effect in relation to any application for an operator's licence in respect of which a direction has been given under paragraph 3 of this Schedule.

(2) Sections 68(4) and 69E of this Act shall not apply.

(3) If the application is granted, the licensing authority—

(a) shall attach to the licence as varied any conditions in respect of which the applicant has consented under paragraph 3(4) of this Schedule; and

(b) shall not attach any other conditions to the licence under section 64B or 69C of this Act.

(4) If the application is granted, the licensing authority shall record in the licence as varied—

(a) any undertakings given or procured to be given under paragraph 3(5) of this Schedule; and

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(b) any other undertakings given by the applicant (or procured by him to be given), whether for the purposes of the application or for the purposes of the request for the direction under paragraph 3 of this Schedule, that the licensing authority considers to be material to his decision to give the direction.

Textual Amendments

F582 Sch. 8A inserted (prosp.) by 1994 c. 40, ss. 50(2), 82(2), **Sch. 12**

SCHEDULE 9 E+W+S

. . . F583

Textual Amendments

F583 Sch. 9 repealed by Transport Act 1982 (c. 49, SIF 126), **Sch. 6**

SCHEDULE 10 E+W+S

Section 94.

AMENDMENTS CONSEQUENTIAL ON PART V

PART I E+W+S

. . . F584

Textual Amendments

F584 Words repealed by Employment Act 1980 (c. 42), **Sch. 2**

. . . F585

Textual Amendments

F585 Words repealed by Tribunals and Inquiries Act 1971 (c. 62), **Sch. 4 Pt. I**

THE M90ROAD TRAFFIC ACT 1960

Provision	*Amendment*
Section 123 (appointment of deputies to traffic commissioners).	In subsections (2) and (3) the references to Part IV of the Act of 1960 shall include references to Part V of this Act.
. . .	. . .

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F586	F586
Section 233(1) (forgery of documents etc.).	In paragraph (a) the reference to any licence under any Part of the Act of 1960 shall include a reference to any licence. . . F587 under Part V of this Act or Schedule 9 thereto. In paragraph (c) the reference to Part IV of the Act of 1960 shall include a reference to Part V of this Act,. . . F587 . In paragraph (d) the reference to Part IV of the Act of 1960 shall include a reference to Part V of this Act.
Section 235(1) (false statements in connection with licences).	The reference to a licence under any Part of the Act of 1960 shall include a reference to any licence. . . F587 under Part V of this Act or Schedule 9 thereto.
Section 247 (destination of fines).	References to. . . F586 the foregoing provisions thereof shall include references to Part V of this Act and Schedule 9 thereto.
Sections 248 and 249 (inquiries).	The references to the Act of 1960 shall include references to Part V of this Act and Schedule 9 thereto.
Section 255 (method of calculating weight of vehicles).	The reference to the Act of 1960 shall include a reference to Part V of this Act.
Section 263(1) (protection of public interests).	The reference to Part IV of the Act of 1960 shall include a reference to Part V of this Act and Schedule 9 thereto. . . F587
Section 269 (saving for law of nuisance).	The reference to the Act of 1960 shall include a reference to Part V of this Act.

Textual Amendments

F586 Words repealed by Road Traffic Act 1972 (c. 20), s. 205, **Sch. 9 Pt. I**

F587 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

Marginal Citations

M90 1960 c. 16.

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
***Changes to legislation:** Transport Act 1968 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

THE TRANSPORT ACT 1962

Provision	*Amendment*
M91 Section 57 (the Transport Tribunal).	In subsections (4) and (5) the references to Part IV of the Act of 1960 shall include references to Part IV of the Act of 1960 shall include references to Part V of this Act and Schedule thereto. In subsection (4) after the words “shall consist" there shall be inserted the words “except for the purpose of excersising the jurisdiction of the tribunal under Part V of, or Schedule 9 to, the Transport Act 1968".
Schedule 10, paragraphs 6(1) and 9(*b*) (special panel and expences of tribunal).	The references to Part IV of the Act of 1960 shall include references to Part V of this Act and Schedule 9 thereto.

Marginal Citations
M91 1962 c. 46**(126).**

PART II E+W+S

AMENDMENTS AS FROM APPOINTED DAY FOR PURPOSES OF S. 94(8)

Modifications etc. (not altering text)
C141 The text of Sch. 10 Pt. II is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

THE ROAD HAULAGE WAGES ACT [M92]

Marginal Citations
M92 1938 C. 44.

Provision	**Amendment**
Section 4(2) (work to which Part II applies).	For the words from “specified" to the beginning of the proviso there shall be substituted the words “specified in an operator’s licence granted under Part V of the Transport Act 1968 or (not being so specified) used wholly or mainly for a purpose for which, but for section 60(2)(*a*) of

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	that Act (exemption for small vehicles), such a licence would be required".
Section 7(8)(enforcement of payment of statutory remuneration where vehicle is used without carrier's licence).	For the words from "Part I" to "required" there shall be substituted the words "Part V of the Transport Act 1968 of using a goods vehicle for a purpose for which an operator's licence is required" and for the words "specified in an A licence, a B licence or a C licence granted under that Act as the case may be" there shall be substituted the words "specified in an operator's licence granted under the said Part V".
Section 15 (interpretation).	In subsection (1), the words "A licence", "B licence" and "C licence" shall be omitted, and for the words "Part I of the Road and Rail Traffic Act 1933" there shall be substituted the words "Part V of the Transport Act 1968". In subsection (2), for the words "paragraph (*b*) or paragraph (*c*) of subsection (6) of section (2) of the Road and Rail Traffic Act 1933" there shall be substituted the words "paragraph (*b*) or (*c*) of section 61(1) of the Transport Act 1968", the words from "being a motor vehicle" to "trailer" shall be omitted and for the words "specified in an A licence or a B licence" there shall be substituted the words "specified in an operator's licence". In the proviso, paragraphs (*a*) and (*b*) shall be omitted and, in paragraph (*c*), the words "whatever classes of such licences are held" shall be omitted and for the words "Part I of the said Act" there shall be substituted the words "Part V of the Transport Act 1968".

THE ROAD TRAFFIC ACT [M93]1960

Marginal Citations
M93 1960 c. 16.

Provision	Amendment
. . . F588	. . . F588
. . . F589	. . . F589

Status: *Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*
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Section 232(1)(*b*) (duty to give information as to identity of driver).	For the words “any offence under subsection (1) of section 164" there shall be substituted the words “any offence under section 60 or 71 of the Transport Act 1968".
Section 233(1) (forgery of documents etc.).	In paragraphs (*c*) and (*d*), for the references to Part IV of the Act of 1960 there shall be substituted references to Part V of this Act.
Section 263(1)(protection of public interests).	For the reference to Part IV of the Act of 1960 there shall be substituted a reference to Part V of this Act and Schedule 9 thereto.
Section 265(2) (construction of references to licensing authorities for goods vehicles).	For the words “Part IV of this Act" there shall be substituted the words “ Part V of the Transport Act 1968 ”.

Textual Amendments

F588 Entry repealed by Public Passenger Vehicles Act 1981 (c. 14, SIF 107:1), **Sch. 8**

F589 Entries repealed by Road Traffic Act 1972 (c. 20, SIF 107:1), s. 205, **Sch. 9 Pt. I**

THE TRANSPORT ACT [M94]1962

Marginal Citations

M94 1962 c. 46.

. . . **F590**	. . . **F590**

Textual Amendments

F590 Entries relating to the Transport Act 1962 repealed by Transport Act 1985 (c.67, SIF 126), s. 139(3), **Sch. 8**

THE ROAD SAFETY ACT [M95]1967

Marginal Citations

M95 1967 c. 30.

. . . **F591**	. . . **F591**

Textual Amendments

F591 Entry repealed by Road Traffic Act 1972 (c. 20, SIF 107:1), s. 205, **Sch. 9 Pt. I**

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SCHEDULE 11 E+W+S

Section 103.

AMENDMENTS CONSEQUENTIAL ON PART VI

. . . F592

Textual Amendments

F592 Words repealed by Employment Act 1980 (c. 42), **Sch. 2**

THE ROAD TRAFFIC ACT M96 1960 E+W+S

Marginal Citations

M96 1960 c. 16.

Section 11(1)(*a*)(production of records).	For the words "section 16 of that Act" there shall be substituted the words "Part VI of the Transport Act 1968".
. . . F593	
Section 247 (destination of fines).	References to. . . F594 the foregoing provisions thereof shall include references to Part VI of this Act.
Section 255 (method of calculating weight of vehicles).	The reference to the Act of 1960 shall include a reference to Part VI of this Act.

Textual Amendments

F593 Entry repealed by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 3, **Sch. 1** (with Sch. 4 paras. 1–3)

F594 Words repealed by Road Traffic Act 1972 (c. 20), s. 205, **Sch. 9 Pt. I**

. . . F594

. . . F595

Textual Amendments

F595 Words repealed by Wages Councils Act 1979 (c. 12), **s. 31(1) Sch. 7**

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SCHEDULE 12 E+W+S

Section 104.

COMMERCIAL AND CRUISING WATERWAYS

PART I E+W+S

COMMERCIAL WATERWAYS

The main navigable channels of the following waterways:—

The Aire and Calder Navigation from the tail of River Lock, Leeds, and from the Calder and Hebble navigation at Wakefield, to its entrance to Goole Docks and to its junction with the River Ouse at Selby.

The Calder and Hebble Navigation from the tail of Greenwood Lock to its junction with the Aire and Calder Navigation at Wakefield.

The Caledonian Canal.

The Crinan Canal.

The Sheffield and South Yorkshire Navigation from the tail of the bottom lock at Tinsley to its junction with the River Trent at Keadby.

The New Junction Canal connecting the Sheffield and South Yorkshire Navigation with the Aire and Calder Navigation.

The Trent Navigation from the tail of Meadow Lane Lock, Nottingham, to Gainsborough Bridge.

The Weaver Navigation and the Weston Canal from Winsford Bridge to the junctions with the Manchester Ship Canal at Marsh Lock and at Delamere Dock.

The River Severn from Stourport to its junction with the Gloucester and Sharpness Canal at Gloucester.

The Gloucester and Sharpness Canal.

The River Lee Navigation from Hertford to the River Thames at Limehouse and to the tail of Bow Locks.

PART II E+W+S

CRUISING WATERWAYS

Modifications etc. (not altering text)
C142 Sch. 12 Pt. 2 modified (E.W.) by British Waterways Act 1983 (c. ii), s. 11(1)(2), **Sch. 2** (with s. 18)

The main navigable channels of the following waterways:—

The Ashby Canal from its junction with the Coventry Canal to Snarestone.

The Birmingham Canal from its junction with the Birmingham and Fazeley Canal at Farmer's Bridge and from its junction with the Worcester and Birmingham Canal at Worcester Bar to its

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junction with the Staffordshire and Worcestershire Canal at Aldersley by way of the Birmingham level as far as the head of Factory Locks, Tipton, and thence by way of the Wolverhampton Level, including the branch leading to its junction with the Stourbridge Canal at Black Delph by way of the Netherton Tunnel.

The Birmingham and Fazeley Canal from its junction with the Birmingham Canal at Farmer's Bridge to its junction with the Trent and Mersey Canal at Fradley, including the detached portion of the Coventry Canal between Huddlesford Junction and Fradley Junction and the Digbeth branch.

The Calder and Hebble Navigation from Sowerby Bridge to the tail of Greenwood Lock, including the Huddersfield Broad Canal to Aspley Basin.

The Chesterfield Canal from the tail of Morse Lock, Worksop, to its junction with the River Trent.

The Coventry Canal from its junction with the Birmingham and Fazeley Canal at Fazeley to Coventry.

The Erewash Canal from Tamworth Road Bridge to its junction with the River Trent.

The Fossdyke Navigation.

The Grand Union Canal from its junctions with the Birmingham and Fazeley Canal at Digbeth and Salford to its junctions with the River Thames at Brentford and at Regent's Canal Dock, including the branches to Northampton and Aylesbury and the Hertford Union Canal leading to the River Lee at Old Ford.

The Grand Union Canal from Leicester to Norton Junction, including the branch to Market Harborough.

The Kennet and Avon Canal from High Bridge, Reading, to the tail of Tyle Mill Lock, and from the head of Bull's Lock to the tail of Hamstead Lock, and from the tail of Hanham Lock to the tail of the bottom lock at Bath.

The Lancaster Canal from Preston to Tewitfield, including the branch to Glasson Dock.

The Leeds and Liverpool Canal from Old Road Bridge, Aintree, to Leeds, including the branches to Tarleton and Leigh.

The Macclesfield Canal.

The Oxford Canal from its junction with the Grand Union Canal at Braunston to its junction with the Coventry Canal at Hawkesbury and from its junction with the Grand Union Canal at Napton to Oxford, including the branch to the River Thames.

The Peak Forest Canal from the top of Marple Locks to Whaley Bridge.

The Ripon Canal from its junction with the River Ure to the tail of Littlethorpe Lock.

The Shropshire Union Canal from its junction with the Manchester Ship Canal at Ellesmere Port to its junction with the Staffordshire and Worcestershire Canal at Autherley, including the branches to the River Dee at Chester, to Llantisilio and to Middlewich.

The River Soar Navigation from its junction with the River Trent to Leicester.

The Staffordshire and Worcestershire Canal.

The River Stort Navigation.

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The Stourbridge Canal from its junction with the Birmingham Canal at Black Delph to its junction with the Staffordshire and Worcestershire Canal at Stourton.

The Stratford-on-Avon Canal from its junction with the Worcester and Birmingham Canal at King's Norton to its junction with the Grand Union Canal at Kingswood.

The Trent and Mersey Canal, including the branch to Hall Green.

The Trent Navigation from Shardlow to the tail of Meadow Lane Lock, Nottingham, by way of the Beeston Canal and part of the Nottingham Canal and including the branch to the River Soar and the length of the River Trent from its junction with the Nottingham Canal to Beeston Weir.

The River Ure Navigation from its junction with the Ripon Canal to Swale Nab.

The Witham Navigation from Lincoln to Boston.

The Worcester and Birmingham Canal.

SCHEDULE 13 E+W+S

Sections 104, 105 and 112.

ORDER RELATING TO INLAND WATERWAYS

Preliminary

1 Before making an order under section 104(3), 105(3) or 112 of this Act the Minister shall comply with the requirements of this Schedule applicable to that order and may then make the order as originally proposed or with such modifications as he thinks fit.

Modifications etc. (not altering text)
C143 Sch. 13 para. 1 modified (1.6.1993) by S.I. 1993/1119, reg. 4(1)(a), **Sch. 1 para. 3(2)**

Consultation

2 (1) In the case of a proposed order under section 104(3) adding to or reducing the waterways in Part I of Schedule 12 to this Act, the Minister shall consult with any organisation appearing to him to represent persons operating, or (in relation to a waterway which is to be added) desiring to operate, commercial freight-carrying vessels on the waterway in respect of which the order is to be made.

(2) In the case of a proposed order under section 104(3)—

(a) adding to or reducing the waterways in Part II of that Schedule; or

(b) removing from Part I without adding to Part II thereof a waterway which is to a substantial extent used by cruising craft,

the Minister shall consult with the Inland Waterways Amenity Advisory Council, consultation in a case within paragraph (b) above being limited to the effect of the proposed order on such use as is mentioned in that paragraph.

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Modifications etc. (not altering text)
C144 Sch. 13 para. 2(1) modified (1.6.1993) by S.I. 1993/1119, **reg. 4** (1)(a), Sch. 1 para. 3(3)
C145 Sch. 13 para. 2(2) modified (1.6.1993) by S.I. 1993/1119, reg. 4(1)(a), **Sch. 1 para. 3(4)**

3 In the case of a proposed order under section 105(3)—

(a) in respect of a commercial waterway or any part thereof, the Minister shall consult—

(i) with any organisation appearing to him to represent persons operating commercial freight-carrying vessels on that waterway or part; and

(ii) if the waterway or part is to a substantial extent used by cruising craft, with the said Council as to the effect of the proposed order on such use as aforesaid;

(b) in respect of a cruising waterway or any part thereof, the Minister shall consult with the said Council.

Modifications etc. (not altering text)
C146 Sch. 13 para. 3 modified (1.6.1993) by S.I. 1993/1119, reg. 4(1)(a), **Sch. 1 para. 3(5)** (as amended (2.7.2012) by The Inland Waterways Advisory Council (Abolition) Order 2012 (S.I. 2012/1658), arts. 1(b), 5, **Sch.**)

4 In the case of a proposed order under section 112 in respect of a canal or part of a canal (within the meaning of that section) which appears to the Minister to be used to a significant extent for the purpose of navigation, the Minister shall consult with any organisation appearing to him to represent persons using it as aforesaid.

Modifications etc. (not altering text)
C147 Sch. 13 para. 4 modified (1.6.1993) by S.I. 1993/1119, reg. 4(1)(a), **Sch. 1 para. 3(6)**

Publication of proposed orders and consideration of objections

5 (1) In the case of a proposed order under section 104(3), 105(3) or 112 in respect of any waterway the Minister shall—

(a) publish in the London Gazette (or, if the waterway is situated in Scotland, the Edinburgh Gazette), in a national newspaper and in one or more local newspapers circulating in the area in which the waterway is situated; and

(b) cause to be displayed in one or more places adjacent to the waterway,

a notice containing a statement—

(i) of the general effect of the proposed order; and

(ii) that objections to the order can be made to him within such time (not being less than twenty-eight days) and in such manner as is specified in the notice;

and shall consider any such objection which is duly made and not withdrawn, and, if he has caused an inquiry to be held in connection with the proposed order, the report of the person holding it.

(2) The holding of an inquiry shall be obligatory—

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(a) in connection with—

(i) a proposed order under section 104(3) removing a waterway from Part I of Schedule 12 to this Act, or removing a waterway from Part II of that Schedule without adding it to Part I thereof;

(ii) a proposed order under section 105(3);

(ii) a proposed order under section 112,

if an objection is duly made to the proposed order (and is not withdrawn) by a local **[**F596authority or a **[**F597water authority**]**;**]****[**F596authority or the National Rivers Authority**]**

(b) in connection with any such proposed order as aforesaid relating to a waterway which appears to the Minister to have been used to a significant extent for the purpose of navigation at the time when notice of the proposed order was published, if an objection is duly made to the proposed order (and is not withdrawn) by any organisation appearing to him to represent a substantial number of persons using it as aforesaid at that time.

(3) In this paragraph "waterway" means, in relation to an order under section 104(3) or 105(3), the waterway or part thereof in respect of which the order is to be made and, in relation to an order under section 112, the canal or part thereof (within the meaning of that section) in respect of which the order is to be made.

Textual Amendments

F596 "authority or the National Rivers Authority" substituted (E.W.) for "authority or water authority" by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 38(4)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

F597 Words substituted by virtue of Water Act 1973 (c. 37), **s. 9(a)**

Modifications etc. (not altering text)

C148 Sch. 13 para. 5(1) modified (1.6.1993) by S.I. 1993/1119, reg. 4(1)(a), **Sch. 1 para. 3(7)**

C149 Sch. 13 para. 5(2)(b) modified (1.6.1993) by S.I. 1993/1119, reg. 4(1)(a), **Sch. 1 para. 3(8)**

Interpretation

6 In this Schedule "cruising craft" has the meaning assigned by section 105(1)(b) of this Act.

Modifications etc. (not altering text)

C150 Sch. 13 para. 6 modified (1.6.1993) by S.I. 1993/1119, reg. 4(1)(a), **Sch. 1 para. 3(9)**

[F598**]****[**F598**]**SCHEDULE 14 E+W+S

Textual Amendments

F598 Sch. 14 repealed by Road Traffic Regulations Act 1984 (c. 27, SIF 107:1), s. 144, **Sch. 14**

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. . . F598

SCHEDULE 15 E+W+S

. . . F599

Textual Amendments

F599 Sch. 15 repealed by Statute Law (Repeals) Act 1989 (c.43), s. 1(1), **Sch. 1 Part X**

SCHEDULE 16 U.K.

SUPPLEMENTARY OR CONSEQUENTIAL PROVISIONS

1, 2. . . . . F600

Textual Amendments

F600 Sch. 16 paras. 1, 2 repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

3 . . . . . F601

Textual Amendments

F601 Sch. 16 para. 3 repealed by Sch. 18 Pt. IV of this Act

4 (1) The power to make bylaws conferred by **[**F602subsection 2 of section 67 of the Act of 1962**]** shall be exercisable by the Scottish Group as well as by the Railways Board, and accordingly, subsections (3) to (12) of that section shall apply as if the expression "Board" included F603. . . the Scottish Group.

F604(2) . . . . . .

(3) Any bylaws made by the Railways Board under the said subsection (2) and in force with respect to any harbour immediately before its transfer to the Scottish Group or to a wholly-owned subsidiary of that Group shall continue in force until varied or revoked by the Scottish Group by virtue of the said subsection (12).

(4) In relation to the Scottish Group any reference to the Minister in the said section 67 shall be construed as a reference to the Secretary of State.

[F605(5) For the purposes of the said section 67, railways, railway premises, or officers and servants of, or ships (or hovercraft) operated by, a wholly owned subsidiary of the Railways Board or the Scottish Group or any subsidiary of London Regional Transport shall be deemed to be railways, railway premises, or officers and servants

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of, or ships (or hovercraft) operated by, that Board or Group or (as the case may be) by London Regional Transport.**]**

Textual Amendments

F602 Words substituted by Transport Act 1980 (c. 34), **Sch. 7 para. 5**

F603 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F604 Sch. 16 paras. 4(2), 5(1) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F605 Sch. 16 para. 4(5) substituted by London Regional Transport Act 1984 (c. 32), ss. 1, 67(2)(3), 72(2), **Sch. 4 para. 2(2)**; S.I. 1984/877,

Modifications etc. (not altering text)

C151 Sch. 16 para. 4(5) extended by S.I. 1972/971, **Sch. 1** Pt. A (as amended by S.I. 1979/1309, **art. 2**(*b*))

5 (1) **F606**

(2) The Railways Board may make an agreement with **[**F607the Scottish Group**]** for making available to that **[**F607Group**]** or to any wholly-owned subsidiary of that **[**F607Group**]** for such period, to such extent and on such terms as may be specified in the agreement, the services of the British Transport Police Force, that is to say, the force organised under the scheme set out in the Schedule to the M97British Transport Police Force Scheme 1963 (Approval) Order 1964 made under section 69 of the Act of 1962.

(3) Where such an agreement has been made members of the said Police Force may act, in accordance with the terms of the agreement, as constables in, on and in the vicinity of any premises of **[**F608the Scottish Group or, as the case may be, the subsidiary in question**]** notwithstanding the provisions of section 53(1) of the M98British Transport Commission Act 1949 (which restricts them to so acting in, on and in the vicinity of premises belonging to, leased to or worked by one of the Boards).

(4) The Minister, after consultation with the Boards and **[**F609the Scottish Group**]**, may by order make such adaptations in the said scheme and in sections 69 to 71 of the Act of 1962 as appear to him expedient to enable that scheme and those sections to have effect as respects any period after the making of the order as if that **[**F609Group**]** were one of the Boards.

Textual Amendments

F606 Sch. 16 paras. 4(2), 5(1) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F607 Words substituted by Transport Act 1980 (c. 34), **Sch. 7 para. 6(a)**

F608 Words substituted by Transport Act 1980 (c. 34), **Sch. 7 para. 6(b)**

F609 Words substituted by Transport Act 1980 (c. 34), **Sch. 7 para. 6(c)**

Modifications etc. (not altering text)

C152 Para. 5 extended by Transport (London) Act 1969 (c. 35), **Sch. 3 para. 7**

Marginal Citations

M97 S.I. 1964/1456.

M98 1949 c. xxix.

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6 . . . . . F610

Textual Amendments

F610 Sch. 16 para. 6 repealed by Sch. 18 Pt. IV of this Act

7 (1) The references to be substituted—

(a) as mentioned in Part I of Schedule 2 to the Act of 1962 in the provisions specified in sub-paragraph (2) of this paragraph; or

(b) as mentioned in Part III of that Schedule in the provisions specified in sub-paragraph (3) of this paragraph,

shall in each case include a reference. . . F611 to any wholly-owned subsidiary. . . F611 of any of the Boards.

(2) The provisions referred to in sub-paragraph (1)(a) of this paragraph are—

(a) section 41(3) of the M99Criminal Justice Act 1948;

(b) section 22 of the M100Diseases of Animals Act 1950;

(c) section 13(1) of the M101Transport Charges (Miscellaneous Provisions) Act 1954;

(d) F612

(e) F613

(f) F614

(g) F615

(3) The provisions referred to in sub-paragraph (1)(b) of this paragraph are—

(a) sections 54, 55, 56 and 57 of the M102British Transport Commission Act 1949;

(b) section 18 in the Schedule to the M103British Transport Commission Order Confirmation Act 1953;

(c) section 52 of the M104British Transport Commission Act 1953;

(d) section 24 of the M105British Transport Commission Act 1954.

(4) In section 23 of the M106British Railways Act 1964 (which provides for the aforesaid section 54 of the M107British Transport Commission Act 1949 to continue in force in its application to the Railways Board) and in any enactment passed after this Act which provides for the said section 54 so to continue in force for a further period, the reference to the Railways Board shall be construed as a reference to the Railways Board, the Freight Corporation and any wholly-owned subsidiary of that Board or Corporation.

Textual Amendments

F611 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F612 Sch. 16 para. 7(2)(*d*) repealed by Food Act 1984 (c. 30, SIF 53:1), **Sch. 11** (as amended by London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 6 para. 31**) and expressed to be repealed by Food Safety Act 1990 (c. 16, SIF 53:1, 2), s. 59(1)(4), Sch. 3 para. 13, **Sch. 5**

F613 Sch. 16 para. 7(2)(*e*) repealed by Food Safety Act 1990 (c. 16, SIF 53:1, 2), s. 59(1)(4), Sch. 3 para. 13, **Sch. 5**

F614 Para. 7(2)(f) repealed by Highways Act 1980 (c. 66), **Sch. 25**

F615 Para. 7(2)(g) repealed by Theft Act (Northern Ireland) 1969 (c. 16), **Sch. 3 Pt. II**

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Modifications etc. (not altering text)
C153 Para. 7(1) amended by Transport (London) Act 1969 (c. 35), **Sch. 3 para. 1(1)(2)**

Marginal Citations
M99 1948 c. 58.
M100 1950 c. 36.
M101 1954 c. 64.
M102 1949 c. xxix.
M103 1953 c. xx.
M104 1953 c. xlii.
M105 1954 c. lv.
M106 1964 c. xvi.
M107 1949 c. xxix.

8 (1) In the Harbours Act 1964—

(a) in section 30(1), for paragraph (*b*) there shall be substituted the following:—

"(b) by virtue of section 43 of the Transport Act 1962 by any of the Boards at a harbour which, in the exercise and performance of statutory powers and duties, that Board are engaged in improving, maintaining or managing, except where the Board in question are the British Transport Docks Board, the British Railways Board or the British Waterways Board and the harbour in question is not specified in Schedule 9 to that Act";

(b) in section 30(4) the words "(other than any of the Boards)" and the words from "or by" to "1962" shall cease to have effect;

(c) in section 36(*a*) for the words "any of the Boards" there shall be substituted the words " the British Transport Docks Board, the British Railways Board or the British Waterways Board ";

(d) in section 57(1)—

(i) at the end of the definition of "the Boards" there shall be added the words " and includes the National Freight Corporation, the Scottish Transport Group and any subsidiary within the meaning of the Transport Act 1968 of any of those Boards or of that Corporation or Group ";

(ii) in the definition of "marine work" for the words "vested in any of the Boards or" there shall be substituted the words " which is vested in any of the Boards other than the Scottish Transport Group or a subsidiary within the meaning of section 154 of the Companies Act 1948 of that Group or which is ".

(2) In any case where, by virtue of sub-paragraph (1)(d)(i) of this paragraph, the Board within the meaning of section 41 of the [M108]Docks and Harbours Act 1966 are a subsidiary of one or more of the Docks Board, the Railways Board, the Waterways Board,. . . [F616] and the Scottish Group, that section shall be construed as if—

(a) any reference therein otherwise than in subsection (1) thereof to the Board were a reference to the body, or to each respectively of the bodies, of which the Board within the meaning of that section are a subsidiary; and

(b) the property, rights and liabilities transferred by the order or scheme in question from the subsidiary were, to an extent proportionate to the extent

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of the interest of that body in the subsidiary, property, rights and liabilities so transferred from that body.

(3) The said section 41 shall have effect with the substitution—

(a) in subsection (2)(*b*)—

(i) for the words "as determined under section 39 of the Transport Act 1962" of the words " under section 39 of the Transport Act 1962 or Schedule 2 to the Transport Act 1968 ";

(ii) for the words "that Act" of the words " the Transport Act 1962 ";

(b) in subsection (3)—

(i) for the words "section 39 of the said Act of 1962" of the words " the said section 39 or Schedule 2 ";

(ii) for the words "section 20 of that Act" of the words " the said section 20 ".

(4) In any application of the said section 41 to the Scottish Group or to any other body in the capacity of a subsidiary of that Group, any reference to the Minister shall be construed as a reference to the Secretary of State.

Textual Amendments

F616 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

Modifications etc. (not altering text)

C154 The text of s. 103(8), 161(4), 162(5), Sch. 16, paras. 8(1)(3), 9, 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M108 1966 c. 28.

9 In the Building Control Act [M109]1966, in the Schedule, for the entry beginning "Any subsidiary" there shall be substituted the following:—

"The National Freight Corporation.

The National Bus Company.

The Scottish Transport Group.

Any subsidiary (as defined in the Transport Act 1968) of any of the bodies mentioned above."

Modifications etc. (not altering text)

C155 The text of s. 103(8), 161(4), 162(5), Sch. 16, paras. 8(1)(3), 9, 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M109 1966 C. 27.

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10 In the Industrial Development Act [M110]1966, in Schedule 2 (which specifies bodies which are not to be eligible for certain grants under that Act) after the entry relating to the Waterways Board there shall be inserted the following entries:—

"The National Freight Corporation.

The National Bus Company.

The Scottish Transport Group."

Modifications etc. (not altering text)

C156 The text of s. 103(8), 161(4), 162(5), Sch. 16, paras. 8(1)(3), 9, 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M110 1966 c. 34.

11 . . . . . [F617]

Textual Amendments

F617 Sch. 16 para. 11 repealed by British Railways Act 1987 (c.xxix), ss. 45(9), 47, **Sch. 2 Pt. 5**

12 . . . . . [F618]

Textual Amendments

F618 Sch. 16 para. 12 repealed by Industry Act 1971 (c. 17, SIF 64), **s. 3(2)**(*b*), Sch. 2 Pt. II

SCHEDULE 17 U.K.

Section 164.

APPLICATION TO NORTHERN IRELAND

PART I U.K.

Provisions extending to Northern Ireland

Part I.

Part II (except sections 10(3), (4), (5) and (9), 13 and 18 to 21).

Sections 24 to 29.

Section 33.

Part IV (except sections 39, 40, 47(1)(a)(ii) and (v), 54 and 56).

Sections 100 and 101.

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Sections 104 to 107 and 110, and so much of section 115 as relates to those sections.

Sections 134, 135, 136, 137, 146, 150,. . . [F619], 160, 161 and 164.

Textual Amendments

F619 Words repealed by House of Commons Disqualification Act 1975 (c. 24), **Sch. 3** and Northern Ireland Assembly Disqualification Act 1975 (c. 25), **Sch. 3 Pt. I**

So far as they relate to any provision of this Act which extends to Northern Ireland sections 156 to 159, 163, 165 and 166.

Schedules 1 to 5, 7 and 16.

This Schedule.

In Schedule 18, Part I,. . . [F619]

PART II U.K.

Modifications

1 In section 10(1)(xxix), the reference to Parliament shall include a reference to the Parliament of Northern Ireland.

2 In section 12(6), for the reference to section 1 of the [M111]Borrowing (Control and Guarantees) Act 1946 there shall, in relation to borrowing in Northern Ireland, be substituted a reference to section 2 of the [M112]Loans Guarantee and Borrowing Regulation Act (Northern Ireland) 1946.

Marginal Citations

M111 1946 c. 58.
M112 1946 c. 18 (N.I.)

3 In section 135(4)(b), for the reference to a tribunal established under section 12 of the [M113]Industrial Training Act 1964 there shall be substituted a reference to a tribunal established under section 13 of the [M114]Industrial Training Act (Northern Ireland) 1964.

Marginal Citations

M113 1964 c. 16.
M114 1964 c. 18 (N.I.)

4 In section 137(3)(a) and (4), the references to the Secretary of State for Employment and Productivity shall, in relation to agreements affecting persons employed in Northern Ireland by an authority to whom that section applies, include a reference to the Ministry of Health and Social Services for Northern Ireland.

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Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

5 In section 160, references to sections 12 and 112 of the [M115]Stamp Act 1891, section 12 of the [M116]Finance Act 1895 and section 8 of the [M117]Finance Act 1899 shall be construed as including references to those sections as they apply in relation to stamp duties chargeable in Northern Ireland; and for the purposes of the application of the said section 160 in relation to those duties, references to the Commissioners of Inland Revenue shall be construed as references to the Ministry of Finance for Northern Ireland.

Marginal Citations
M115 1891 c. 39.
M116 1895 c. 16.
M117 1899 c. 9.

6 In Schedule 4, in paragraph 2(4), the reference to the Secretary of State for Employment and Productivity shall, in relation to agreements affecting persons employed in Northern Ireland, include a reference to the Ministry of Health and Social Services for Northern Ireland.

7 In Schedule 4, in paragraph 3, for the reference to section 64 of the [M118]Law of Property Act 1925, there shall be substituted a reference to section 9 of the [M119]Conveyancing Act 1881.

Marginal Citations
M118 1925 c. 20.
M119 1881 c. 41.

8 An arbitrator for the purposes of paragraph 13(3) of Schedule 4 shall, where the proceedings are to be held in Northern Ireland, be appointed by the Lord Chief Justice of Northern Ireland.

9 References to enactments or statutory provisions include references to enactments of the Parliament of Northern Ireland and provisions, whether of a general or special nature, contained in, or in any document made or issued under, any Act of the Parliament of Northern Ireland, whether of a general or a special nature.

[F620]SCHEDULE 18 U.K.

Textual Amendments
F620 Sch. 18 repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

Status:
Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:
Transport Act 1968 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.