Transport Act 1968

1968 CHAPTER 73

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Act requiring transport managers for operating centres for authorised vehicles under goods vehicle operator's licences repealed (E.W.) by Transport Act 1982 (c. 49, SIF 126), **Sch. 5 para. 6**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

INTEGRATION OF FREIGHT TRANSPORT SERVICES

1—5. . . . . . [F1]

Textual Amendments

F1 Ss. 1-5 repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt.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

6 . . . . . [F2]

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

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F2 S. 6 repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt.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

F3 **7** . . . . . .

Textual Amendments

F3 S. 7 repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), 152(3), **Sch.14**; S.I. 1994/571, **art. 5**

F4 **8** . . . . . .

Textual Amendments

F4 S. 8 repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), 152(3), **Sch.14**; S.I. 1994/571, **art. 5**

PART II

PASSENGER TRANSPORT AREAS

Modifications etc. (not altering text)

C6 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)**

C7 Power to modify Pt. 2 conferred (S.) by Local Government (Scotland) Act 1973 (c. 65), **s. 150(3)**

C8 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. E+W+N.I.

[F5(1) **[**F6Subject 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

[F7(ii) in Scotland, such area to be known as the Strathclyde Passenger Transport Area as the Minister may designate for the purposes of section 40 of the Local Government etc. (Scotland) Act 1994;**]**

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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 **[**F8passenger transport authority for the county which is coterminous with or includes that passenger transport area**]**; and

F9(ii) **[** in relation to the Strathclyde Passenger Transport Area, the Strathclyde Passenger Transport Authority**]**

(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

F10(i) **[** in England and Wales**]** 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; **[**F11and

(ii) in Scotland, the Strathclyde Passenger Transport Executive**]**

(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

(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 **[**F12county which is coterminous with or includes that**]** area.**]**

(5) Each of the councils of **[**F13the districts comprised in **[**F14a county which is coterminous with or includes**]** a passenger transport area**]** 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. . . F15thereto other than **[**F16section 20(6) and (7)**]** shall be construed as a reference to the Secretary of State.

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

Textual Amendments

F5 S. 9(1)–(4) substituted by Transport Act 1985 (c.67, SIF 126) s. 57(1)(a)

F6 Words inserted by Transport Act 1985 (c. 67, SIF 126), **s. 58(2)(a)(i)**

F7 S. 9(1)(a)(ii) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(2)(a)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F8 Words substituted by Transport Act 1985 (c. 67, SIF 126), **s. 58(2)**(*a*)(ii)

F9 S. 9(1)(b)(ii) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(2)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F10 Words inserted and words in s. 9(1)(c) renumbered as s. 9(1)(c)(i) (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(2)(c)(i)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F11 S. 9(1)(c)(ii) and preceding word inserted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(2)(c)(ii)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F12 Words inserted by Transport Act 1985 (c. 67, SIF 126), **s. 58(2)**(*b*)

F13 Words substituted (E.W.) by virtue of Transport Act 1985 (c. 67, SIF 126), **s. 57(1)**(*b*)

F14 Words inserted (E.W.) by Transport Act 1985 (c. 67, SIF 126), **s. 58(2)**(*c*)

F15 Words repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 3, **Sch. 8**

F16 Words substituted by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 3, **Sch. 8**

9 Passenger Transport Areas, Authorities and Executives. S

[F751(1) **[**F752Subject 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

[F7(ii) in Scotland, such area to be known as the Strathclyde Passenger Transport Area as the Minister may designate for the purposes of section 40 of the Local Government etc. (Scotland) Act 1994;**]**

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 **[**F753passenger transport authority for the county which is coterminous with or includes that passenger transport area**]**; and

[F9(ii) in relation to the Strathclyde Passenger Transport Area, the Strathclyde Passenger Transport Authority**]**

(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

[F10(i) in England and Wales**]** 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 transport area**]**

[F11and

(ii) in Scotland, the Strathclyde Passenger Transport Executive**]**

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

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

(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 **[**F754county which is coterminous with or includes that**]** area.

(5) Each of the councils **[**F755constituted under section 2 of the Local Government etc.(Scotland) Act 1994 whose area (or any part of whose area) falls within the Strathclyde Passenger Transport Area**]** 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. . . F756thereto other than **[**F757section 20(6) and (7)**]** shall be construed as a reference to the Secretary of State.

(7) F758

Extent Information

E20 This version of this provision extends to Scotland only; a separate version has been created for England, Wales and Northern Ireland only.

Textual Amendments

F7 S. 9(1)(a)(ii) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(2)(a)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F9 S. 9(1)(b)(ii) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(2)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F10 Words inserted and words in s. 9(1)(c) renumbered as s. 9(1)(c)(i) (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(2)(c)(i)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F11 S. 9(1)(c)(ii) and preceding word inserted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(2)(c)(ii)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F751 S. 9(1)–(4) substituted by Transport Act 1985 (c.67, SIF 126) s. 57(1)(*a*)

F752 Words inserted by Transport Act 1985 (c. 67, SIF 126), **s. 58(2)**(*a*)(i)

F753 Words substituted by Transport Act 1985 (c. 67, SIF 126), **s. 58(2)(a)(ii)**

F754 Words inserted by Transport Act 1985 (c. 67, SIF 126), **s. 58(2)(b)**

F755 Words in s. 9(5) substituted (S.) (1.4.1996) by S.I. 1996/739, art. 7(1), **Sch. 1 Pt. I para. 2**

F756 Words repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 3, **Sch. 8**

F757 Words substituted by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 3, **Sch. 8**

F758 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

[F17 9A General functions of Passenger Transport Authorities and Executives. E+W

F18(1) . . . . . .

F18(2) . . . . . .

[F19(3) It shall be the duty of the Executive for each passenger transport area in England to secure the provision of such public passenger transport services as the Authority for the area consider it appropriate for the Executive to secure for meeting any public transport requirements within the area which in the Authority's view would not be met apart from any action taken by the Executive for that purpose.

(3A) The Authority shall seek and have regard to the advice of the Executive for their area in determining which services it would be appropriate for the Executive to secure under subsection (3) 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;

[F20to have regard to a combination of economy, efficiency and effectiveness.**]**

(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

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public who are elderly or disabled **[**[F21]and to the bus strategy made jointly by the Authority and the councils for the metropolitan districts comprised in the area.**]**

(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;

(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.**]**

Extent Information

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

Textual Amendments

F17 Ss. 9A, 9B inserted (with savings for s. 9A(8) by Transport Act 1985 (c. 67, SIF 126), **s. 57(2)(5)**

F18 S. 9A(1)(2) repealed (1.2.2001 (E.) and omitted 1.8.2001 (W.) and repealed 14.8.2002 (W.)) by 2000 c. 38, ss. 161, 274, Sch. 11 para. 3(2), **Sch. 31 Pt. II**; S.I. 2001/57, art. 3, **Sch. 3 Pt. I** (subject to savings in Sch. 3 Pt. II); S.I. 2001/2788, art. 2, **Sch. 1 para. 11**; S.I. 2002/2024, **art. 2**

F19 S. 9A(3)(3A) substituted (1.2.2001 (E.) and 1.8.2001 (W.)) for s. 9A(3) by 2000 c. 38, ss. 161, 275(1), **Sch. 11 para. 3(3)**; S.I. 2001/57, art. 3, **Sch. 3 Pt. I** (subject to savings in Sch. 3 Pt. II); S.I. 2001/2788, art. 2, **Sch. 1 para. 11**

F20 Words in s. 9A(6) substituted (1.2.2001 for E and 1.8.2001 for W.) by 2000 c. 38, ss. 161, 275(1), **Sch. 11 para. 3(4)**; S.I. 2001/57, art. 3, **Sch. 3 Pt. I** (subject to savings in Sch. 3 Pt. II); S.I. 2001/2788, art. 2, **Sch. 1 para. 11**

F21 Words in s. 9A(7) substituted (1.2.2001 for E. and 1.8.2001 for W.) by 2000 c. 38, ss. 161, 275(1), **Sch. 11 para. 3(5)**; S.I. 2001/57, art. 3, **Sch. 3 Pt. I** (subject to savings in Sch. 3 Pt. II); S.I. 2001/2788, art. 2, **Sch. 1 para. 11**

Modifications etc. (not altering text)

C9 S. 9A excluded (24.12.1993) by 1993 c. 43, **ss. 144(1)**, 150(1)(j); S.I. 1993/3237, **art. 2(1)**

C10 S. 9A(8) excluded (18.2.1993) by 1989 c. xix, **s. 28(7)** (as inserted by 1993 c. ii, **s. 14**)

[F759 9A General functions of Passenger Transport Authorities and Executives. S+N.I.

(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 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 **[**F760 sections 89 to**][**F760 section**]** 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—

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(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;

(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 **[**[F761]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.**]**

Extent Information

E21 This version of this provision extends to Scotland and Northern Ireland only; a separate version has been created for England and Wales only

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Textual Amendments

F759 Ss. 9A, 9B inserted (with savings for s. 9A(8) by Transport Act 1985 (c. 67, SIF 126), **s. 57(2)(5)**

F760 Word in s. 9A(4)(b) substituted (S.) (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), **ss. 60(2)**, 62(2); S.S.I. 2003/134, art. 2(1), sch.

F761 Words in s. 9A(9)(b) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 80(3), **Sch. 14**; S.I. 1996/323, **art. 4(1)(b)(c)**

Modifications etc. (not altering text)

C168 S. 9A excluded (24.12.1993) by 1993 c. 43, **ss. 144(1)**, 150(1)(j); S.I. 1993/3237, **art. 2(1)**

C169 S. 9A(8) excluded (18.2.1993) by 1989 c. xix, **s. 28(7)** (as inserted by 1993 c. ii, **s. 14**)

[F22[F23]9B Consultation and publicity with respect to policies as to services. **E+W+N.I.**

(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 **[**F24the county which is coterminous with or includes**]** that area about the requirements of transport arising 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.**]]**

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

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

Textual Amendments

F22 Ss. 9A, 9B inserted (with savings for s. 9A(8)) by Transport Act 1985 (c. 67, SIF 126), **s. 57(2)(5)**

F23 S. 9B repealed (1.2.2001 (E.) and omitted 1.8.2001 (W.) and repealed 14.8.2002 (W.) and otherwise *prosp.*) by 2000 c. 38, ss. 161, 274, 275(1), Sch. 11 para. 4, **Sch. 31 Pt. II**; S.I. 2001/57, art. 3, Sch. 3 Pt. I (subject to savings in **Sch. 3 Pt. II**); S.I. 2001/2788, art. 2, **Sch. 1 para. 11**; S.I. 2002/2024, **art. 2**

F24 Words inserted by Transport Act 1985 (c. 67, SIF 126), **s. 58(3)**

[F762 9B Consultation and publicity with respect to policies as to services. S

(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 **[**F763council (constituted under section 2 of the Local Government etc. (Scotland) Act 1994)**]** 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 **[**F764the county which is coterminous with or includes**]** that area about the requirements of transport arising 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.**]**

Extent Information

E22 This version of this provision extends to Scotland only; a separate version has been created for England and Wales and Northern Ireland only

Textual Amendments

F762 Ss. 9A, 9B inserted (with savings for s. 9A(8)) by Transport Act 1985 (c. 67, SIF 126), **s. 57(2)(5)**

F763 Words in s. 9B(1)(a) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(4)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F764 Words inserted by Transport Act 1985 (c. 67, SIF 126), **s. 58(3)**

10 General powers of Executive. E+W

(1) Subject to the provisions of this Act, the Executive for a **[**F25passenger 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, **[**F26the 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

(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;

F27(vi) . . . . . .

F27(viza) . . . . . .

[F28(via) with the approval of the Authority, to enter into and carry out agreements with any person who is the operator of, or who has an estate or interest in, or right over, a network, station or light maintenance depot or some part of a network, station or light maintenance depot, in connection with the building, replacement, redevelopment, refurbishment, repair, maintenance, operation or staffing of the network, station or light maintenance depot or any part thereof;**]**

(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;

[F29(viiia) to let locomotives and other rolling stock on hire to any person who is (within the meaning of Part I of the Railways Act 1993) the franchisee or the franchise operator under a franchise agreement to which the Executive is a party;

(viiib) to let locomotives and other rolling stock on hire to a person not falling within paragraph (viiia) above—

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(a) for or in connection with the provision of railway passenger services within that area or within the permitted distance; or

(b) with the written consent of the Secretary of State, for or in connection with the provision of railway passenger services outside that area and beyond the permitted distance;

(viiic) with the approval of the Authority, to enter into and carry out agreements with the owner of any locomotive or other rolling stock concerning the persons to whom, or the terms on which, the locomotive or other rolling stock may be let on hire;**]**

(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 **[**[F30]and section 104(1) of the Transport Act 1985 (travel concessions on services provided by Passenger Transport 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;

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(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 [F31]. . ., 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)

(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;

(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;

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(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 **[**F32their 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 services in the area under an agreement with the Executive. . . **F33** 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 **[**F25passenger 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**[**F34Acquisition of Land Act 1981**]** shall **[**F35apply 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 **[**F36Acquisition of Land Act 1981**]** form part of a common, open space or fuel or field garden allotment.

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(5) The Ferries (Acquisition by Local Authorities) [M2]Act 1919 shall apply to the Executive for a **[**[F25]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 **[**[F25]passenger transport**]** area as if that area were a **[**[F37]region**]** and the Executive were the council of that **[**[F37]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 **[**[F25]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]**[**[F38]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.

Extent Information

E3 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

F25 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)**

F26 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)**

F27 S. 10(1)(vi)(viza) repealed (E.W.S.) (24.7.2005 for E.W.) by Railways Act 2005 (c. 14), ss. 14(1)(a), 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.

F28 S. 10(1)(via) inserted (1.4.1994) by 1993 c. 43, **s. 36(1)**; S.I. 1994/571, **art. 5**

F29 S. 10 (1)(viiia)-(viiic) inserted (E.W.S.) (1.4.1994) by 1993 c. 43, **s. 36(2)**; S.I. 1994/571, **art. 5**

F30 Words inserted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 139(2), **Sch. 7 para. 7**

F31 Words repealed (S.) by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 29** and (E.W.) by Local Government Act 1974 (c. 7, SIF 81:2), **Sch. 8**

F32 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)**

F33 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

F34 Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(2)(a)**

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F35 Words “apply to the compulsory purchase" substituted (E.W.) for words from “apply as if" to “that Act" by Aquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(2)(b)**
F36 Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(3)(a)**
F37 Word substituted by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 18 para. 2(b)**
F38 Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(2)(b)**

Modifications etc. (not altering text)
C11 S. 10: transfer of functions (S.) (28.11.2005) by The Transfer of Rail Functions To The Scottish Ministers Order 2005 (S.S.I. 2005/598), arts. 1, 3, **sch. 1** (with art. 5)
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)**

10 General powers of Executive. S

(1) Subject to the provisions of this Act, the Executive for a **[**F765passenger 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, **[**F766the 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

(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 **[**F39the Strategic Rail Authority or any wholly-owned subsidiary of the Strategic Rail Authority in respect of railway passenger

services provided**]** 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;

(viza) to enter into agreements with the Strategic Rail Authority under which the Executive make payments to the Strategic Rail Authority in respect of the cost incurred by it in securing the provision of a bus substitution service (within the meaning of the [M96]Railways Act 1993) between places in that area or between such places and places outside that area but within the permitted distance for the purposes of paragraph (ii) of this subsection;

[[F767](via) with the approval of the Authority, to enter into and carry out agreements with any person who is the operator of, or who has an estate or interest in, or right over, a network, station or light maintenance depot or some part of a network, station or light maintenance depot, in connection with the building, replacement, redevelopment, refurbishment, repair, maintenance, operation or staffing of the network, station or light maintenance depot or any part thereof;**]**

(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;

[[F768](viiia) to let locomotives and other rolling stock on hire to any person who is (within the meaning of Part I of the Railways Act 1993) the franchisee or the franchise operator under a franchise agreement to which the Executive is a party;

(viiib) to let locomotives and other rolling stock on hire to a person not falling within paragraph (viiia) above—

(a) for or in connection with the provision of railway passenger services within that area or within the permitted distance; or

(b) with the written consent of the Secretary of State, for or in connection with the provision of railway passenger services outside that area and beyond the permitted distance;

(viiic) with the approval of the Authority, to enter into and carry out agreements with the owner of any locomotive or other rolling stock concerning the persons to whom, or the terms on which, the locomotive or other rolling stock may be let on hire;**]**

(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

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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 and **[**[F769]section 104(1) of the Transport Act 1985 (travel concessions on services provided by Passenger Transport 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 [F770]. . ., 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

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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;

(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 **[**[F771]their 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

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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 services in the area under an agreement with the Executive [F772]. . . 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 **[**[F765]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 [M97]**[**[F773]Acquisition of Land Act 1981**]** shall 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.

(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 **[**[F774]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) [M98]Act 1919 shall apply to the Executive for a **[**[F765]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) [M99]Act 1937 shall apply to the Executive for a **[**[F765]passenger transport**]** area as if **[**[F775]the Executive were within the meaning of that Act a local authority for that area**]**.

(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 **[**[F765]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 [M100][F776]Acquisition of Land Act 1981] references to the [M101]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.

Extent Information

E23 This version of this provision extends to Scotland only; separate versions have been created for England and Wales only and Northern Ireland only.

Textual Amendments

F39 Words in s. 10(1)(vi) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 3(2)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F765 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)**

F766 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)

F767 S. 10(1)(via) inserted (1.4.1994) by 1993 c. 43, **s. 36(1)**; S.I. 1994/571, **art. 5**

F768 S. 10(1)(viiia)-(viiic) inserted (1.4.1994) by 1993 c. 43, **s. 36(2)**; S.I. 1994/571, **art. 5**

F769 Words inserted (E.W.S) by Transport Act 1985 (c. 67, SIF 126), s. 139(2), **Sch. 7 para. 7**

F770 Words repealed (S.) by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 29** and (E.W.) by Local Government Act 1974 (c. 7, SIF 81:2), **Sch. 8**

F771 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*)

F772 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

F773 Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(2)(a)**

F774 Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(3)(a)**

F775 Words in s. 10(6) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(5)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F776 Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(2)**(*b*)

Modifications etc. (not altering text)

C11 S. 10: transfer of functions (S.) (28.11.2005) by The Transfer of Rail Functions To The Scottish Ministers Order 2005 (S.S.I. 2005/598), arts. 1, 3, **sch. 1** (with art. 5)

C170 S. 10 modified (28.11.2005) by The Transfer of Rail Functions To The Scottish Ministers Order 2005 (S.I. 2005/598), art. 4, **Sch. 2 para. 1**

C171 Power to exclude s. 10(1)(i) conferred (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 60(5)**

C172 Power to repeal s. 10(1)(i) conferred (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 60(7)(8)**

C173 Power to exclude s. 10(1)(viii) conferred (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 60(5)**

C174 Power to repeal s. 10(1)(viii) conferred (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 60(7)(8)**

C175 S. 10(1)(xiii) restricted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 104(1)**

C176 S. 10(1)(xv) restricted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 82(5)**

Marginal Citations

M96 1993 c. 43.

M97 1981 c. 67.**(28:1).**

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M98 1919 c. 75.
M99 1937 c. 28.
M100 1981 c. 67.**(28:1)**
M101 1947 c. 42**(28:2)**

10 General powers of Executive. N.I.

(1) Subject to the provisions of this Act, the Executive for a designated 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, 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;

(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

(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 **[**F39the Strategic Rail Authority or any wholly-owned subsidiary of the Strategic Rail Authority in respect of railway passenger services provided 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;

[F40(viza) to enter into agreements with the Strategic Rail Authority under which the Executive make payments to the Strategic Rail Authority in respect of the cost incurred by it in securing the provision of a bus substitution service (within the meaning of the M96Railways Act 1993) between places in that area or between such places and places outside that area but within the permitted distance for the purposes of paragraph (ii) of this subsection;

[F41(via) with the approval of the Authority, to enter into and carry out agreements with any person who is the operator of, or who has an estate or interest in, or right over, a network, station or light maintenance depot or some part of a

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network, station or light maintenance depot, in connection with the building, replacement, redevelopment, refurbishment, repair, maintenance, operation or staffing of the network, station or light maintenance depot or any part thereof;

(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 , 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;

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(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 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;

(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;

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(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 the discharge of their duty under section 9(3) of this Act, 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 services in the area under an agreement with the Executive or with the consent of the Executive granted under Schedule 6 to this Act 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 designated 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 [M102][F777]Acquisition of Land Act 1981] shall 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.

(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

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right in, over or under any land which would for the purposes of the **[**F778Acquisition of Land Act 1981**]** form part of a common, open space or fuel or field garden allotment.

(5) The Ferries (Acquisition by Local Authorities) M103Act 1919 shall apply to the Executive for a designated 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) M104Act 1937 shall apply to the Executive for a designated area as if that area were a **[**F779region**]** and the Executive were the council of that **[**F779region**]**.

(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 designated 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 M105**[**F780Acquisition of Land Act 1981**]** references to the M106Acquisition 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.**]]]**

Extent Information

E24 This version of this provision extends to Northern Ireland only; separate versions have been created for England and Wales only and Scotland only.
For application to Northern Ireland see Sch. 17 Pt. I

Textual Amendments

F39 Words in s. 10(1)(vi) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 3(2)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F40 S. 10(1)(viza) inserted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 3(3)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F41 S. 10(1)(via) inserted (1.4.1994) by 1993 c. 43, **s. 36(1)**; S.I. 1994/571, **art. 5**

F777 Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(2)**(*a*)

F778 Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(3)**(*a*)

F779 Word substituted by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 18 para. 2**(*b*)

F780 Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **Sch. 4 para. 18(2)**(*b*)

Marginal Citations

M96 1993 c. 43.

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M102 1981 c. 67.**(28:1).**
M103 1919 c. 75.
M104 1937 c. 28.
M105 1981 c. 67.**(28:1)**
M106 1947 c. 42**(28:2)**

[F39[Financial duty of Executive.

F40[

F41 11 **F42**(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 **[F43**section 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.

F44(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 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.**]**

F45(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

F39 Words in s. 10(1)(vi) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 3(2)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

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F40 S. 10(1)(viza) inserted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 3(3)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F41 S. 10(1)(via) inserted (1.4.1994) by 1993 c. 43, **s. 36(1)**; S.I. 1994/571, **art. 5**

F42 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**

F43 Words substituted (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 18 para. 3**

F44 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**

F45 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.

(1) The provisions of this section shall have effect with respect to borrowing by the Executive for a **[**[F46]designated**]|[**[F46]]passenger 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;

(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. . . [F47]

(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.

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

(4) **[**F48Each of the councils of constituent areas**][**F48The Authority for the Executive's area**]** shall have power to lend money to the Executive **[**F49but 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.

F50(6) . . . . . .

(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) M6

Textual Amendments

F39 Words in s. 10(1)(vi) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 3(2)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F40 S. 10(1)(viza) inserted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 3(3)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F41 S. 10(1)(via) inserted (1.4.1994) by 1993 c. 43, **s. 36(1)**; S.I. 1994/571, **art. 5**

F46 Words substituted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), S. 57(6), **Sch. 3 para 2**(*a*)

F47 Words repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 6(a)**, Sch. 8

F48 Words substituted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 6(b)(i)**

F49 Words substituted (E.W.S.) by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(1), **Sch. 11 para. 16**

F50 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**; S.I. 1991/132, **art. 2**; and repealed (N.I.) (1.4.1991) by S.I. 1991/761, art. 9(2), **Sch. 2**; S.R. 1991/116, **art.2**

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 1975 c. 30

[F51**13** **Power to make grants.** E+W

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

Status: *Point in time view as at 16/08/2006.*
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Extent Information

E4 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

F39 Words in s. 10(1)(vi) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 3(2)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F40 S. 10(1)(viza) inserted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 3(3)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F41 S. 10(1)(via) inserted (1.4.1994) by 1993 c. 43, **s. 36(1)**; S.I. 1994/571, **art. 5**

F51 S. 13 substituted (E.W.) by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 7**

[F781 13 Grants and payments. S

(1) Any expenditure of the Strathclyde Passenger Transport Authority shall, in so far as not otherwise met, be met by the local authorities whose areas lie wholly or partly within the area of the Authority in such proportions as the M107 authorities may agree.

(2) Where—

(a) the authorities mentioned in subsection (1) above cannot reach agreement as to the proportions in which the expenditure of the Authority shall be met by them and the Authority make an application to the Secretary of State for resolution of the matter; or

(b) it appears to the Secretary of State that those authorities are unable to reach such agreement,

the Secretary of State shall determine the proportions in which such expenditure shall be met by those authorities.

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

Extent Information

E25 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

F781 S. 13 substituted (S.) (1.4.1996) by 1994 c. 39, **s. 41** (with s. 7(2)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**

Marginal Citations

M107 1968 c. 73.

[F52 13A Guarantees by Authority.

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

Textual Amendments

F39 Words in s. 10(1)(vi) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 3(2)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F40 S. 10(1)(viza) inserted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 3(3)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F41 S. 10(1)(via) inserted (1.4.1994) by 1993 c. 43, **s. 36(1)**; S.I. 1994/571, **art. 5**

F52 S. 13A inserted (S.) (3.11.1994) by 1994 c. 39, **ss. 163**, 184(2)

14 Accounts of Executive. E+W

(1) The Executive for a **[**F53passenger transport**]** area shall—

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

F54 . . .

F54(b) . . . . . .

F55(2) . . . . . .

[As soon as the accounts of the Executive for any accounting period have been audited F56(3) in accordance with the Audit Commission Act 1998 they shall send a copy of any statement of accounts prepared by them for that period pursuant to regulations under section 27 of that Act to the Minister, to the Authority and 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.**]**

Extent Information

E5 This version of this provision extends to England and Wales only; separate versions have been created for Scotland only and for Northern Ireland only

Textual Amendments

F39 Words in s. 10(1)(vi) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 3(2)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F40 S. 10(1)(viza) inserted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 3(3)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F41 S. 10(1)(via) inserted (1.4.1994) by 1993 c. 43, **s. 36(1)**; S.I. 1994/571, **art. 5**

F53 Words in s. 14(1) substituted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 2**(*a*)

F54 Word in s. 14(1) 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**

F55 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**

F56 S. 14(3) substituted (E.W.) (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 2**

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)**
S. 14(1)(a) restricted (E.W.) (11.9.1998) by 1998 c. 18, **ss. 30(2)**, 55(2)

14 Accounts of Executive. S

(1) The Executive for a **[**F782passenger transport**]** area shall—

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

(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 **[**F783Authority**]** may from time to time direct.

(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 **[**F784who is eligible for appointment as a company auditor under section 25 of the Companies Act 1989 or who is a member of the Chartered Institute of Public Finance and Accountancy;**]** 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.

(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, **[**F785and**]** to the Authority F786. . . F787. . . together with a copy of the report made by the auditor or auditors on that statement.

Extent Information

E26 This version of this provision extends to Scotland only; separate versions have been created for England and Wales only and for Northern Ireland only.

Textual Amendments

F782 Words in s. 14(1) substituted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 2**(*a*)

F783 Word in s. 14(1)(b) substituted (S.) by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 18 para. 6**(*a*)

F784 Words in s. 14(2) substituted (1.10.1991) by virtue of S.I. 1991/1997, reg. 2, **Sch. para. 21(2)**.

F785 Word in s. 14(3) inserted (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 18 para. 6(b)**

F786 Words s. 14(3) repealed (S.) by Transport Act 1985 (c.67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 9, **Sch. 8**

F787 Words in s. 14(3) repealed (S.) by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and repealed (S.) by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 21(3)**(*b*)

14 Accounts of Executive. N.I.

(1) The Executive for a designated area shall—

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

(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 Minister may from time to time direct.

(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 **[**F788who is eligible for appointment as a company auditor under section 25 of the Companies Act 1989 or who is a member of the Chartered Institute of Public Finance and Accountancy;**]** 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.

(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, to the Authority for the designated area and to each of the councils of constituent areas, together with a copy of the report made by the auditor or auditors on that statement.

Extent Information

E27 This version of this provision extends to Northern Ireland only; separate versions have been created for England and Wales only and for Scotland only

Textual Amendments

F788 Words in s. 14(2) substituted (1.10.1991) by virtue of S.I. 1991/1997, reg. 2, **Sch. para. 21(2)**.

15 Further functions of Authority. E+W

(1) The Executive for a **[**F57passenger transport**]** area shall submit to the Authority and obtain the Authority's approval of— F58

(a) . . . . . .

[F59(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 F60...;

(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 F61. . .; and

(b) subject to section **[**F62104(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;

F63. . .

F64(3) . . . . . .

F65(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 **[**F57passenger transport**]** area shall be held to be unlawful on the ground that the

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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.

Extent Information

E6 This version of this provision extends to England and Wales only; separate versions have been made for Scotland only and Northern Ireland only

Textual Amendments

F39 Words in s. 10(1)(vi) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 3(2)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F40 S. 10(1)(viza) inserted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 3(3)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F41 S. 10(1)(via) inserted (1.4.1994) by 1993 c. 43, **s. 36(1)**; S.I. 1994/571, **art. 5**

F57 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*)

F58 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

F59 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*)

F60 Words in s. 15(1)(d) repealed (E.W.S.) (24.7.2005 for E.W.) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.

F61 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

F62 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**

F63 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

F64 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

F65 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

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)**
S. 15(2) restricted (11.11.1996) by S.I. 1996/2714, **art. 44(5)**
S. 15(2) explained (14.3.2002) by S.I. 2002/412, **art. 32(5)** (with s. 38)

C25 S. 15(2) restricted (3.8.2005) by The Greater Manchester (Leigh Busway) Order 2005 (S.I. 2005/1918), arts. 1, **45(5)**

C26 S. 15(2) excluded (11.1.2006) by The Cambridgeshire Guided Busway Order 2005 (S.I. 2005/3523), arts. 1, **47(5)** (with art. 52)
C27 S. 15(2)(*a*) modified (E.W.) by Transport Act 1983 (c. 10, SIF 126), **s. 6(6)**(*a*)
C28 S. 15(2)(*a*) amended (E.W.) by Transport Act 1983 (c. 10, SIF 126), **s. 6(7)**
C29 S. 15(2)(*b*) modified (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 139(1), **Sch. 6 para. 24**
C30 S. 15(5) extended (E.W.) by Transport Act 1983 (c. 10, SIF 126), **ss. 9(3)**, 10(1)(*a*)
C31 S. 15(5) amended (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 133(2)**

15 Further functions of Authority. S

(1) The Executive for a **[**[F789]passenger transport**]** area shall submit to the Authority and obtain the Authority's approval of— [F790]

(a) . . . . . .

[[F791](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 **[**[F792]the Strategic Rail Authority or a wholly-owned subsidiary of the Strategic Rail Authority for the provision**]** of that Board for the provision by the Board or the wholly-owned subsidiary 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 [F793]. . .; and

(b) subject to section **[**[F794]104(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;

and, 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 **[**[F795]of the grants which will be needed to enable the Executive to comply with their obligation under section 11(1) of this Act**]**. . .

[F796](3) . . . . . .

[(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, [F797]. . .**]**

(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 **[**[F789]passenger 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

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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.

Extent Information

E28 This version of this provision extends to Scotland only; separate versions have been created for England and Wales only and Northern Ireland only

Textual Amendments

F789 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)**

F790 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

F791 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)**

F792 S. 15(1)(d) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 4**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F793 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

F794 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**

F795 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*)

F796 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

F797 Words repealed (E.W.) by Local Government Act 1974 (c. 7, SIF 81:2), **Sch. 8** and (S.) by Local Government (Scotland) Act 1975 (c. 30, SIF 81:2), **Sch. 7**

Modifications etc. (not altering text)

C177 S. 15(2) modified (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 104(2)**

C178 S. 15(2) excluded (27.7.1993) by 1993 c. xv, **s. 66(5)**
S. 15(2) restricted (11.11.1996) by S.I. 1996/2714, **art. 44(5)**
S. 15(2) explained (14.3.2002) by S.I. 2002/412, **art. 32(5)** (with s. 38)

C179 S. 15(2)(*b*) modified (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 139(1), **Sch. 6 para. 24**

C180 S. 15(5) amended (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 133(2)**

15 Further functions of Authority. N.I.

(1) The Executive for a designated area shall submit to the Authority and obtain the Authority’s approval of—

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

(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;

(d) any agreement proposed to be entered into by the Executive otherwise than under section 20(2)(b) of this Act with **[**F798the Strategic Rail Authority or a wholly-owned subsidiary of the Strategic Rail Authority for the provision**]** of that Board for the provision by the Board or the wholly-owned subsidiary 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 or provided by any person in pursuance of an agreement with the Executive under section 19(2) of this Act; and

(b) subject to section138(1) of this Act, for any proposal of the Executive for reducing or waiving those charges in a particular case or cases of a particular class;

and, 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 amountto be raised by precepts or, in Scotland, requisitions under section 13 of this Act, and, 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.

(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 designated 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 to issue a precept under section 13 of this Act to meet any cost incurred by the Executive in consequence of the direction.

(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, to 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 designated 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

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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.

Extent Information

E29 This version of this provision extends to Northern Ireland only; separate versions have been created for England and Wales and Scotland only

Textual Amendments

F798 Words in s. 15(1)(d) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 4**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

Modifications etc. (not altering text)

C181 S. 15(2) excluded (27.7.1993) by 1993 c. xv, **s. 66(5)**
S. 15(2) restricted (11.11.1996) by S.I. 1996/2714, **art. 44(5)**

[F66 15A Additional provisions as to control of Executive by Authority.

F67(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

F39 Words in s. 10(1)(vi) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 3(2)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F40 S. 10(1)(viza) inserted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 3(3)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F41 S. 10(1)(via) inserted (1.4.1994) by 1993 c. 43, **s. 36(1)**; S.I. 1994/571, **art. 5**

F66 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**

F67 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.

(1) The Authority for any **[**F68area designated by an order under section 9(1) of this Act**]**[F68passenger 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 **[**F69as the Minister may direct**]**[F69as 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 **[**F70by the order aforesaid**]**[F70by 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 **[**F71which do not, **[**F72and if section 19(3)(*a*) of this Act had not passed would not**]**, require authorisation by a road service licence**]**[F71other 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; **[**F73and

(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.**]**

F74(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

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(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).

(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

F39 Words in s. 10(1)(vi) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 3(2)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F40 S. 10(1)(viza) inserted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 3(3)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F41 S. 10(1)(via) inserted (1.4.1994) by 1993 c. 43, **s. 36(1)**; S.I. 1994/571, **art. 5**

F68 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)**

F69 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**

F70 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)**

F71 Words substituted (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 139(2), **Sch. 7 para. 9**

F72 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

F73 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**

F74 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)

C32 S. 16 amended by Transport Act 1983 (c. 10, SIF 126), **s. 8(5)**

C33 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

[F75 17 Transfer to Executive of local authority transport undertakings.

(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

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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 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

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(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;

(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 [M7]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.

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(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

F75 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**

Marginal Citations

M7 1960 c. 15.

18, 19. . . . . . **F76**

Textual Amendments

F76 Ss. 18, 19 repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 1, **Sch. 8**

F77 20 Special duty of certain Executives with respect to railway passenger services.

(1) **F78**

(2) **[F79**Without prejudice to their **[F80**duty under section 9A(3)**]** of this Act,**]** it shall be the special duty of the Executive for a **[F81**passenger transport**]** area. . . **F82**—

(a) to. . . **F83** keep under review, the railway passenger services provided **[F84**by passenger service operators (within the meaning of Part I of the Railways Act 1993)**]** 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; **[F85**and

(b) without prejudice to the general powers of the Executive under section 10 of this Act **[F86**, to enter into such agreements with the Strategic Rail Authority or any wholly-owned subsidiary of the Strategic Rail Authority as the Passenger Transport Authority for that area may approve for securing the provision of such railway passenger services as the Passenger Transport Authority**][F87**consider it appropriate to secure to meet any public transport requirements within that area**].]**

(3) **[F88][F89**The Strategic Rail Authority**]** 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) **[F90**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 **[F91**the Strategic Rail Authority or a wholly-owned

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subsidiary of the Strategic Rail Authority in respect of the railway passenger services provided**]** in pursuance of the agreement.**]**

(5) **[**[F90]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) **[**[F90]If any dispute arises between the Executive and **[**[F92]the Strategic Rail Authority or any wholly-owned subsidiary of the Strategic Rail Authority**]** 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 **[**[F93]the Strategic Rail Authority or the subsidiary**]** with respect to the dispute as he thinks fit.**]**

(7) **[**[F90]Before giving any directions under subsection (6) of this section to the Executive for a **[**[F81]passenger transport**]** area in Scotland or Wales the Minister shall consult with the Secretary of State.**]**

(8) . . . . . [F94]

Textual Amendments

F77 S. 20 excluded (24.12.1993) by 1993 c. 43, **ss. 144(1)**, 150(1)(j); S. I. 1993/3237, **art. 2(1)**

F78 S. 20(1) repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(3), 139(3), **Sch. 8**

F79 Words in s. 20(2) repealed (24.7.2005 for E.W.) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.

F80 Words substituted by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 13**(*a*)(i)

F81 Word substituted by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 2**(*a*)

F82 Words repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 13**(*a*)(ii), Sch. 8

F83 Words repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 13**(*a*)(iii), Sch. 8

F84 Words in s. 20(2) inserted (1.4.1994) by 1993 c. 43, **s. 36(3)**; S.I. 1994/571, **art. 5** (with art. 7)

F85 S. 20(2)(b) and preceding word repealed (24.7.2005 for E.W.) by Railways Act 2005 (c. 14), ss. 14(1)(b), 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.

F86 Words in s. 20(2)(b) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 5(2)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F87 Words substituted by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 13**(*a*)(iv)

F88 S. 20(3) repealed (24.7.2005 for E.W.) by Railways Act 2005 (c. 14), ss. 14(1)(b), 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.

F89 Words in s. 20(3) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 5(3)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F90 S. 20(4)-(7) repealed (24.7.2005 for E.W.) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.

F91 Words in s. 20(4) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 5(4)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 PT. II)

F92 Words in s. 20(6) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 5(5)(a)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F93 Words in s. 20(6) substituted (1.2.2001) by 2000 c. 38, s. 252, **Sch. 27 para. 5(5)(b)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F94 S. 20(8) repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 13**(*b*), Sch. 8

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Modifications etc. (not altering text)

C34 S. 20 extended (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 57(3)**

C35 S. 20: transfer of functions (S.) (28.11.2005) by The Transfer of Rail Functions To The Scottish Ministers Order 2005 (S.S.I. 2005/598), arts. 1, 3, **sch. 1** (with art. 5)

21 . . . . . F95

Textual Amendments

F95 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.

(1) In relation to orders. . . F96 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. . . F96 made under this Part of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) F97

Textual Amendments

F96 Words repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), **Sch. 3 para. 14**(*a*), Sch. 8

F97 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.

(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 any provision of this Part of this Act to an action of the Executive for a **[**F98passenger 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 **[**F99or an Authority for a **[**F98passenger transport**]** area**]** gives directions under this Part of this Act to give effect to those directions.

(3) Any direction given by the Minister **[**F99or an Authority for a **[**F98passenger transport**]** area**]** under this Part of this Act shall be in writing.

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

Textual Amendments

F98 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*)

F99 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**

[F100 23A Interpretation of certain provisions of this Part relating to railways.

(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 [M8]Companies Act 1985.**]]]]**

Textual Amendments

F100 S. 23A inserted (1.4.1994) by 1993 c. 43, **s. 36(3)**; S.I. 1994/571, **art. 5**

Marginal Citations

M8 1985 c. 6.

PART III

BUS AND FERRY SERVICES

National Bus Company and Scottish Transport Group

[F101 24 Establishment and general duties of Bus Company and Scottish Group. E+W +S

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

F102(a) . . . . . .

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

(2) **[**F103In 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) F104. . . of the Scottish Group, F105. . ., either acting directly, or acting indirectly through subsidiaries of that F104. . . 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 F104. . . Group or their subsidiaries in or in connection with that area,

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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.

F106(3) F107

(4) **[**F107Subsection (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.**]**

Extent Information

E7 This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

Textual Amendments

F101 S. 24 repealed (S.) (7.6.2002) by S.S.I. 2002/263, art. 5(2), **Sch.**

F102 S. 24(1)(a) repealed (G.B.) (1. 4. 1991) by S.I. 1991/510, reg. 5, **Sch.**

F103 Words in s. 24(2) 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**

F104 Words in s. 24(2) repealed (G.B.) (1. 4. 1991) by S.I. 1991/510, reg. 5, **Sch.**

F105 In s. 24(2) the words "or of both that Company and that Group (as the case may be appropriate having regard to where that area is situated)" are expressed to be repealed (G.B.) (1. 4.1991) by S.I. 1991/510, reg. 5, **Sch.**

F106 S. 24(3) repealed (G.B.) by Transport Act 1985 (c. 67, SIF 126), ss. 113(1), 139(3), **Sch. 8**; and by S.I. 1991/510, reg. 5, **Sch.**, s. 24(3)(b)(d) is expressed to be repealed (G.B.) (1. 4.1991).

F107 Words in s. 24(4) 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)

C36 S. 24(2) excluded by Transport Act 1980 (c. 34), **s. 15(2)**(*a*)

C37 Power to exclude s. 24(2) conferred (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 60(2)**

C38 S. 24(2) excluded (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 60(3)**

C39 Power to repeal s. 24(2) conferred (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 60(7)**(*a*)(8)

24 Establishment and general duties of Bus Company and Scottish Group. N.I.

(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) **[**Where any area has been designated under section 9(1) 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,

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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.

(3) It shall be the duty respectively—

(a) F799

(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) **[**Subsections (2) and (3) 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.**]**

Extent Information

E30 This version of this provision extends to Northern Ireland only; a separate version has been created for Great Britain only.

Textual Amendments

F799 S. 24(3)(*a*) repealed by Transport (London) Act 1969 (c. 35, SIF 126), **Sch. 6**

Modifications etc. (not altering text)

C182 S. 24(2)(3) excluded by Transport Act 1980 (c. 34), **s. 15(2)**(*a*)

[F108 25 General powers of Bus Company.

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

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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.**]**

Textual Amendments

F108 S. 25 repealed (G.B.) (1. 4. 1991) by S.I. 1991/510, **reg. 5**,Sch.

[F109 26 General powers of Scottish Group.

(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 **[F110** Highland 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-

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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

F109 S. 26 repealed (S.) (7.6.2002) by S.S.I. 2002/263, art. 5(2), **Sch.**

F110 Words substituted by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 18 para. 13**

[F111 27 Financial provisions with respect to Bus Company and Scottish Group.

(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 **[**F112to 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) **[**F113The 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 **[**F114the 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 **[**F114Company or, as the case may be,**]**Group,

shall not exceed—

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[for the Bus Company, **[**F116the limit mentioned in subsection (4) of this F115(i) section**]**;**]**

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

F117**[** The limit referred to in subsection (3)(i) of this section is £250 million or such greater F118(4) 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

F111 S. 27 repealed (S.) (7.6.2002) by S.S.I. 2002/263, art. 5(2), **Sch.**
F112 Words in s. 27(1) repealed (G.B.) (1. 4. 1991) by S.I. 1991/510, reg. 5, **Sch.**
F113 Words in s. 27(2) repealed (G.B.) (1. 4. 1991) by S.I. 1991/510, reg. 5, **Sch.**
F114 Words in s. 27(3) repealed (G.B.) (1. 4. 1991) by S.I. 1991/510, reg. 5, **Sch.**
F115 S. 27(3)(i) repealed (G.B.) (1. 4. 1991) by S.I. 1991/510, reg. 5, **Sch.**
F116 Words substituted by Transport (Finance) Act 1982 (c. 6, SIF 102), **s. 4(2)**
F117 S. 27(4)(5) repealed (G.B.) (1. 4. 1991) by S.I. 1991/510, reg. 5, **Sch.**
F118 S. 27(4)(5) added by Transport (Finance) Act 1982 (c. 6, SIF 102), **s. 4(3)**

[F119**28 Transfer to Bus Company or Scottish Group of certain securities, rights and liabilities.**

[On the appointed day for the purposes of this subsection—

F120(1) (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

(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

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(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 **[**F121(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; **[**F121and 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) **[**F122The 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 **[**F123between the Holding Company and the Bus Company or, as the 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 **[**F124(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.**]]**

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Textual Amendments

F119 S. 28 repealed (S.) (7.6.2002) by S.S.I. 2002/263, art. 5(2), **Sch.**

F120 S. 28(1) repealed (G.B.) (1. 4. 1991) by S.I. 1991/510, reg. 5, **Sch.**

F121 Words in s. 28(3) repealed (G.B.) (1. 4. 1991) by S.I. 1991/510, reg. 5, **Sch.**

F122 Words in s. 28(4) repealed (G.B.) (1. 4. 1991) by S.I. 1991/510, reg. 5, **Sch.**

F123 Words in s. 28(5) repealed (G.B.) (1. 4. 1991) by S.I. 1991/510, reg. 5, **Sch.**

F124 Words in s. 28(6) repealed (G.B.) (1. 4. 1991) by S.I. 1991/510, reg. 5, **Sch.**

[F125 29 Transfer of certain property, rights and liabilities between Railways Board and Bus Company or Scottish Group.

(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 **[**F126Bus Company and**]**the Scottish Group **[**F126respectively**]**, 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.

F127 **[** (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 liabilities, or of all property, rights or liabilities comprised in a specified part of their undertaking, being property, rights and liabilities held or subsisting

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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 **[**F128subsection (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

F125 S. 29 repealed (S.) (7.6.2002) by S.S.I. 2002/263, art. 5(2), **Sch.**

F126 In s. 29(2) by S.I. 1991/510, reg. 5, **Sch** it is provided that the words "Bus Company and" and the word "respectively" are repealed (G.B.) (1. 4. 1991).

F127 S. 29(4) repealed (G.B.) by Transport Act 1985 (c. 67, SIF 126), s. 139(3), **Sch. 8**; and by S.I. 1991/510, reg. 5, **Sch.** the words in s. 29(4) from "as from" to "Bus Company" are expressed to be repealed (G.B.) (1. 4. 1991).

F128 Words substituted by Transport Act 1980 (c. 34, SIF 126), **Sch. 7 para. 3**

Relaxation of control over certain bus services

30 . . . . . F129

Textual Amendments

F129 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.

(1) So much of subsection (1) of section 101 of the M9Road 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.

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(2) Any provision in a local Act or in any order under Part VI of the [M10]Local Government Act 1933, Part VI of the [M11]Local Government (Scotland) Act 1947, or Part II of the [M12]Local Government Act 1958—

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

(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

M9 1930 c. 43.
M10 1933 c. 51.
M11 1947 c. 43.
M12 1958 c. 55.

Assistance for bus and ferry services

[F130]32 New bus grants.

. . . . . .

Textual Amendments

F130 S. 32 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 14**

[F131]33

(1) F132

(2) F133

(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

F131 S. 33 repealed (1.2.2001 (E.) and 14.8.2002 (W.) and otherwise*prosp.*) by 2000 c. 38, ss. 274, 275(1), **Sch. 31 Pt. II**; S.I. 2001/57, art. 3, Sch. 3 Pt. I (subject to savings in **Sch. 3 Pt. II**); S.I. 2002/2024, **art. 2**

F132 S. 33(1) omitted by virtue of Finance Act 1974 (c. 30, SIF 126), **s. 54(1)**

F133 S. 33(2) repealed by Transport London Act 1969 (c. 35, SIF 126), **Sch. 6**

Modifications etc. (not altering text)

C40 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.

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

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

(1) Any of the following councils, namely the council or any county,. . . F134 or [F135district] 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. . . F136 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.

[F137(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) F138

Extent Information

E8 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

F134 Words repealed by Local Government Act 1972 (c. 70, SIF 81:1), **Sch. 30**
F135 Word substituted by virtue of Local Government Act 1972 (c. 70, SIF 81:1), **s. 179(3)**
F136 Words repealed by Transport Act 1985 (c. 67, SIF 126), s. 139(2)(3), **Sch. 7 para. 10**(*a*), Sch. 8
F137 S. 34(1A) inserted by Transport Act 1985 (c. 67, SIF 126), s. 139(2), **Sch. 7 para. 10**(*b*)
F138 S. 34(2)(3) repealed by Local Government Act 1974 (c. 7), Sch. 1 para. 7, **Sch. 8**

[F800 34 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 [F801council or two or more 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 [F802a council] 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 [F803a council] in respect of

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expenditure incurred by **[**F803that**]** 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.**]**

[F804(5) In this section "council" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.**]**

Extent Information

E31 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

F800 S. 34 substituted by Local Government (Scotland) Act 1973 (c. 65, SIF: 81:2), **Sch. 18 para. 14**

F801 Words in s. 34(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(6)(a)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F802 Words in s. 34(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(6)(b)**; S.I. 1966/323, **art. 4(1)(b)(c)**

F803 Words in s. 34(4) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(6)(c)(i)(ii)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F804 S. 34(5) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(6)(d)**; S.I. 1996/323, **art. 4(1)(b)(c)**

Modifications etc. (not altering text)

C183 S. 34(2) amended by Local Government (Scotland) Act 1975 (c. 30)

Further provision relating to public service vehicles

35 (1) F139

(3) F140

Textual Amendments

F139 S. 35(1)(2) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. I**

F140 S. 35(3) repealed by Public Passenger Vehicles Act 1981 (c. 14, SIF 107:1), **Sch. 8**

36 . . . . . F141

Textual Amendments

F141 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.

(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

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by section 101(1) of that Act or by any local Act or order, are running public service vehicles may,. . . [F142]

(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) . . . . . [F143]

Textual Amendments

F142 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**

F143 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**

PART IV

FURTHER PROVISIONS AS TO BOARDS, NEW AUTHORITIES AND TRANSPORT SERVICES

Railways Board

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

(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) . . . . . [F144]

Textual Amendments

F144 S. 38(4) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

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.

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C42 The "said Board" means the Railways Board

39 . . . . . F145

Textual Amendments

F145 S. 39 repealed by Railways Act 1974 (c. 48), **s. 3(7)**

F146**40** . . . . . .

Textual Amendments

F146 S. 40 repealed (1.4.1994) by 1993 c. 43, s. 150(1)(o), **Sch.14**; S.I. 1994/571, **art. 5**

Additional financial provisions with respect to Boards and new authorities

41 Financial provisions as to Boards and new authorities.

(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) F147

(7) F148

(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.

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F149(9) . . . . . .

(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

F147 S. 41(6) repealed by Transport London Act 1969 (c. 35, SIF 126), **Sch. 6**

F148 S. 41(7) repealed by Transport Act 1981 (c. 35, SIF 126), **Sch. 12**

F149 S. 41(9) omitted (01.10.1991) by virtue of S.I. 1991/1997, reg. 2, **Sch.**, para. 21(3).

Modifications etc. (not altering text)

C43 S. 41(2) excluded (24.12.1993) by 1993 c. 43, **ss. 144(1)(a)**, 150(1)(j); S.I. 1993/3237, **art. 2(1)**

C44 The text of ss. 38(1), 41(8), 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.

(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.

F150(3) . . . . . .

F151(4) . . . . . .

F151(5) . . . . . .

(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

F152(b) . . . . . .

[F153(c) the principal of any money borrowed by wholly owned subsidiaries of the Board under that section in its application by virtue of section 110 of the Railways Act 1993,**]**

[F154shall not exceed £3,000 million or such greater sum not exceeding £5,000 million as the Secretary of State**]** 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.

(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.

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(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

F150 S. 42(3) repealed (6.1.1994) by 1993 c. 43, ss. 150(1)(o), 152(1)(3), Sch. 12 para. 6(2), **Sch.14**; S.I. 1993/3237 art. 2(2)

F151 S. 42(4)(5) repealed (6.1.1994) by 1993 c. 43, ss. 150(1)(o), 152(3), **Sch.14**; S.I. 1993/3237, **art. 2(2)**

F152 S. 42(6)(b) repealed (6.1.1994) by 1993 c. 43, ss. 111, 150(1)(o), 152(3), **Sch.14**; S.I. 1993/3237, **art. 2(2)**

F153 S. 42(6)(c) inserted (6.1.1994) by 1993 c. 43, **s.111**; S.I. 1993/3237, **art. 2(2)**

F154 Words in s. 42(6) substituted by British Railways Board (Finance) Act 1991 (c. 63, SIF 102), **s. 1(1)**.

43 Additional financial provisions as to Waterways Board.

(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.

[F155(2A) The Scottish Ministers may 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) F156

(4) F157

(5) **[**F158Subject to subsection (6) below,**]** 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.

[F159(6) Where an excess under subsection (5) of this section arises in relation to the activities of the Board in Scotland, the Scottish Ministers may require that excess, so far as it appears to them, after consultation with the Board, to be surplus to the requirements of the Board, to be paid over to the Scottish Ministers.**]**

Textual Amendments

F155 S. 43(2A) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(2)** (with art. 4)

F156 S. 43(3)(*b*) and word "and" preceding it repealed by Transport (Financial Provisions) Act 1977 (c. 20, SIF 126), **s. 3(2)**(*b*)

F157 S. 43(4) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

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F158 Words in s. 43(5) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(3)** (with art. 4)

F159 S. 43(6) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(4)** (with art. 4)

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

(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—

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

(ii) F160

[F161(iii) under the said section 20(1) as applied by section. . . F162 27(1) of this Act to. . . F162 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. . . F163; or

[F164(iii) by way of interest on, or the repayment of, the commencing capital debt of. . . F162 the Bus Company under Schedule 2 to this Act; or**]**

(iv) in respect of any surplus of. . . F163 the Railways Board or the Waterways Board,

are required by section 20(5),. . . F163 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. . . F163,. . . F162 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.

[F165(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

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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) ".

Textual Amendments

F160 S. 44(1)(*a*)(ii) repealed by S.I. 1973/338, **Sch. 2**

F161 S. 44(1)(a)(iii) repealed (G.B.) (1. 4. 1991) by S.I. 1991/510, reg. 5, **Sch.**

F162 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F163 Words repealed by S.I. 1973/338, **Sch. 2**

F164 S. 44(1)(b)(iii) repealed (G.B.) (1. 4. 1991) by S.I. 1991/510, reg. 5, **Sch.**

F165 S. 44(2)(a)(b) repealed (S.) (7.6.2002) by S.S.I. 2002/263, art. 5(2), **Sch.**

Modifications etc. (not altering text)

C45 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

F166 45 Duty of Freight Corporation and Railways Board to review organisation.

. . . . . .

Textual Amendments

F166 S. 45 repealed (6.1.1994) by 1993 c. 43, ss. 150(1)(o), 152(1)(3), Sch. 12 para. 6(3), **Sch.14**; S.I. 1993/3237, **art. 22**

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

(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 **[**F167or, in the case of the Waterways Board, in respect of their functions in Scotland, the Scottish Ministers**]** 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—

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(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 ".

Textual Amendments

F167 Words in s. 46(2)(a) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(5)** (with art. 4)

Modifications etc. (not altering text)

C46 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.

(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);

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(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 [F168the 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.

Textual Amendments

F168 Words in s. 47(2) repealed (G.B.) (1. 4. 1991) by S.I. 1991/510, **reg. 5**,Sch.

48 Manufacture, repair and supply.

(1) This section applies to the following authorities, namely, the Boards and the new authorities, **[**F169but in its application to the Scottish Group any reference to the Minister shall be construed as a reference to the Secretary of State**]**.

[F170(1A) In the application of this section to the Waterways Board in connection with any activity in Scotland, any reference to the Minister shall be construed as a reference to the Scottish Ministers and, in subsection (6) the words "and with the approval of the Treasury" shall be omitted.**]**

(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 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

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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.

(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);

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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.

Textual Amendments

F169 Words in s. 48(1) repealed (S.) (7.6.2002) by virtue of S.S.I. 2002/263, art. 5(2), **Sch.**

F170 S. 48(1A) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(6)** (with art. 4)

Modifications etc. (not altering text)

C47 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)**

C48 S. 48(2) extended by Transport Act 1982 (c. 49, SIF 126), **Sch. 5 para. 5(1)(2)**

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.

49 Powers with respect to land. E+W+S

(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.

(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

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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

[F171(b) in the case of the Waterways Board adjoins or is situated in the vicinity of any inland waterway comprised in the undertaking of that Board,**]**

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, **[**F172that waterway**]** that the rail services of the Railways Board F173. . . can be directly used **[**F174or, as the case may be, the waterway can be conveniently used**]** by the person for the time being occupying the land proposed to be acquired.

[F175(4A) In the application of this section to the development of their land in Scotland by the Waterways Board, any reference to the Minister shall be construed as a reference to the Scottish Ministers.**]**

(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) F176

Extent Information

E9 This version of this provision extends to England, Wales and Scotland only; a separate version has been created for Northern Ireland only

Textual Amendments

F171 S. 49(4)(b) substituted (16.1.1995) by 1995 c. i, **s. 23(a)** (with s. 34)

F172 Words in s. 49(4) substituted (16.1.1995) by 1995 c. i, **s. 23(b)** (with s. 34)

F173 Words in s. 49(4) omitted (16.1.1995) by virtue of 1995 c. i, **s. 23(c)** (with s. 34)

F174 Words in s. 49(4) inserted (16.1.1995) by 1995 c. i, **s. 23(d)** (with s. 34)

F175 S. 49(4A) inserted (1.4.2001) by S.I. 2000/3251, art. 2, **Sch. 2 Pt. II para. 3(7)** (with art. 4)

F176 S. 49(6) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

Modifications etc. (not altering text)

C50 S. 49 restricted (E.W.S.) (1.1.1993) by S.I. 1992/3060, **reg. 4(2)**.

C51 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. N.I.

(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

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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.

(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.

[F805(4A) In the application of this section to the development of their land in Scotland by the Waterways Board, any reference to the Minister shall be construed as a reference to the Scottish Ministers.**]**

(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) F806

Extent Information

E32 This version of this provision extends to Northern Ireland only; a separate version has been created for England, Wales and Scotland only

Textual Amendments

F805 S. 49(4A) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(7)** (with art. 4)

F806 S. 49(6) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

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Modifications etc. (not altering text)

C184 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.

(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,. . . [F177] and Waterways Board shall each have power, with the consent of the Minister **[**[F178]or, in the case of the Waterways Board, in connection with the exercise of their functions in Scotland, the Scottish Ministers**]**, to provide such facilities at any other premises; and the said section 3(3)(e) shall apply to goods which have been or 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.

[F179](2) . . . . . .

(3) The Waterways Board, [[F180]the Bus Company] and **[**[F181]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 [[F180]the Bus Company] or **[**[F181]Scottish Group**]** may require them, for use both by those and other persons.

(4) **[**[F182]In subsection (3) of this section the reference to hotels includes a reference**]** 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, [[F183]the Bus Company] or **[**[F181]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 **[**[F184]or, in the case of the Waterways Board, in connection with the exercise of their functions in Scotland, the Scottish Ministers**]**, 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

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person in forming, promoting and assisting, a company for carrying on any activities which that Board or new authority have power to carry on.

[F185(8A) Subsection (8) of this section does not oblige the Waterways Board to secure any restriction on the borrowing powers of a company which it forms, promotes and assists, or joins with any other person in forming, promoting and assisting.

This subsection does not affect the powers or obligations of the Waterways Board in or as regards Scotland.**]**

(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 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 **[**F186or, in the case of the Waterways Board, in connection with the exercise of their functions in Scotland, the Scottish Ministers**][**F187, 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

F177 Words repealed by Transport Act 1981 (c. 56, SIF 126), **Sch. 12**, Pt. I

F178 Words in s. 50(1) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(8)** (with art. 4)

F179 S. 50(2) repealed (6.1.1994) by 1993 c. 43, ss. 150(1)(o), 152(1)(3), Sch. 12 para. 6(5)(a), **Sch. 14**; S.I. 1993/3237, **art. 2(2)**

F180 Words in s. 50(3) repealed (E.W.S.) (1. 4. 1991) by S.I. 1991/510, reg. 5, **Sch.**

F181 S. 50(3)(4): “The Scottish Group" repealed (S.) (7.6.2002) by virtue of S.S.I. 2002/263, art. 5(2), **Sch.**

F182 Words in s. 50(4) substituted (6.1.1994) by 1993 c. 43, ss. 150(1)(o), 152(1), **Sch. 12 para. 6(5)(b)**; S.I. 1993/3237, **art. 2(2)**

F183 Words in s. 50(4) repealed (E.W.S.) (1. 4. 1991) by S.I. 1991/510, reg. 5, **Sch.**

F184 Words in s. 50(5) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(9)** (with art. 4)

F185 S. 50(8A) inserted (13.6.2003) by The Regulatory Reform (British Waterways Board) Order 2003 (S.I. 2003/1545), arts. 1, **3**

F186 Words in s. 50(9) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(10)** (with art. 4)

F187 Words in s. 50(9) repealed (S.) (7.6.2002) by virtue of S.S.I. 2002/263, art. 5(2), **Sch.**

Modifications etc. (not altering text)

C52 S. 50(1)(2) restricted (E.W.S) (1.1.1993) by S.I. 1992/3060, **reg. 4(2)**.

C53 S. 50(7)—(10) extended by Transport (London) Act 1969 (c. 35), **s. 6(2)**

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C54 S. 50(7) restricted (6.1.1994) by 1993 c. 43, ss. 150(1)(o), 152(1), **Sch. 12 para. 6(5)(c)**; S.I. 1993/3237, **art. 2(2)**

51 Subsidiaries and joint subsidiaries.

(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.

(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 **[**F188Part 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 **[**F189or, as the case may be, the Scottish Ministers**]** has not been obtained), and

(b) does not do anything which the Minister has **[**F190or, as the case may be, the Scottish Ministers have**]** directed any of those authorities not to do, and

(c) does not, except with the consent of the Minister **[**F191or, as the case may be, the Scottish Ministers**]**, borrow money from any person other than those authorities, and

(d) does not, except with the consent of the Minister **[**F192or, as the case may be, the Scottish Ministers**]**, raise money by the issue of shares or stock to any person other than those authorities;

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and the Minister **[**F193or, as the case may be, the Scottish Ministers**]** may give to those authorities such directions as appear to him **[**F193or, as the case may be, to them**]**appropriate for ensuring that they carry out the duty imposed on them by this subsection.

[F194(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.**]**

Textual Amendments

F188 Words in s. 51(5) substituted (1.1.1996) by 1995 c. 23, s. 60(1), **Sch. 7 para. 3** (with ss. 54, 55); S.I. 1995/2181, **art. 2**

F189 Words in s. 51(6)(a) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(11)** (with art. 4)

F190 Words in s. 51(6)(b) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(12)** (with art. 4)

F191 Words in s. 51(6)(c) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(13)** (with art. 4)

F192 Words in s. 51(6)(d) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(14)** (with art. 4)

F193 Words in s. 51(6)(d) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(15)(a)(b)** (with art. 4)

F194 S. 51(7) repealed (S.) (7.6.2002) by S.S.I. 2002/263, art. 5(2), **Sch.**

Modifications etc. (not altering text)

C55 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.

C56 S. 51(5) excluded by Transport Act 1978 (c. 55), **s. 15(4)**

C57 S. 51(5)(6) modified by London Regional Transport Act 1984 (c. 32, SIF 126), **s. 62(3)(4)**

52 Supplementary and miscellaneous provisions.

(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. . . **F195** powers of compulsory purchase for the purpose of their business) activities carried on by any of the Boards. . . **F195** 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. . . **F195**.

(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 **[**F196 and, in their

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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

F195 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F196 Words in s. 52(3) repealed (S.) (7.6.2002) by S.S.I. 2002/263, art. 5(2), **Sch.**

Modifications etc. (not altering text)

C58 S. 52 amended by Transport Act 1980 (c. 34, SIF 126), **Sch. 5 para. 5(1)(2)**

C59 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.

(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) **F197**

(c) where by virtue of paragraph (a). . . **F197** 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

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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). . . [F197] 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 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

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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

F197 Words repealed by Transport Holding Company Act 1972 (c. 14, SIF 126), **s. 1(3)**

Modifications etc. (not altering text)

C60 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

F198 54 . . . . . .

Textual Amendments

F198 S. 54 repealed (1.4.1994) by 1993 c. 43, s. 49(1), 150(1)(o), **Sch.14** (with s. 152(2), Sch. 13 para. 3(2)); S.I. 1994/571, **art. 5**

55 Amendments as to Transport Consultative Committees.

(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 **[**F199the Rail Passengers' Council and the **[**F200Rail Passengers' Committees**][**F200London Transport Users' Committee**]]** falls to be exercised—

(a) shall not include any services or facilities provided by the Waterways Board F201 . . .

F202(b) . . . . . .

and accordingly—

F203(i) . . . . . .

(ii) the reference in paragraph (b) of that subsection to a Board shall be construed as excluding a reference to the Waterways Board. . . F204;

F203(iii) . . . . . .

(iv) F205

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F206 . . .

F207(2) . . . . . .

F207(3) . . . . . .

F207(4) . . . . . .

(5) F208

Textual Amendments

F199 Words in s. 55(1) substituted (1.2.2001) by 2000 c. 38, s. 227, **Sch. 22 para. 17**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F200 Words in s. 55 substituted (E.W.S.) (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 12 para. 2(2)**; S.I. 2005/1909, art. 2, Sch.

F201 Words in s. 55(1)(a) repealed (1.4.1994) by 1993 c. 43, s. 150(1)(o), Sch. 12 para. 6(6)(b)(i), **Sch. 14**; S.I. 1994/571, **art. 5**

F202 S. 55(1)(b) repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), **Sch. 12**. para. 6(6)(b)(ii), Sch. 14; S.I. 1994/571, **art. 5**

F203 S. 55(1)(b)(i)(iii) repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), Sch. 12 para. 6(6)(b)(iii), **Sch. 14**; S.I. 1994/571, **art. 5**

F204 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F205 S. 55(1)(iv) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F206 Words in s. 55(1)(b) repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), Sch. 12 para. 6(6)(b)(iv), **Sch. 14**; S.I. 1994/571, **art. 5**

F207 S. 55(2)-(4) repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), Sch. 12 para. 6(6), **Sch. 14**; S.I. 1994/571, **art. 5**

F208 Ss. 54(8), 55(5) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

56 Assistance by Minister or local authority towards capital expenditure on public transport facilities.

(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.

[F209(2A) Where a relevant local authority proposes to make payments under subsection (2) of this section in respect of any facilities, that authority may enter into an agreement with **[**F210the **[**F211Strategic Rail Authority under which the Authority undertakes to exercise any of its franchising functions**]][**F210a national authority under which the national authority undertakes to exercise any of its functions in relation to railways or railway

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services**]** , to refrain from exercising such functions, or to exercise such functions in a particular manner, in relation to the use of the facilities in question.

(2B) In subsection (2A) of this section, the following expressions have the following meanings respectively, that is to say—

F212 . . .

[F213“franchising functions”, in relation to the **[**F214Strategic Rail Authority**]**, has the same meaning as it has in relation to **[**F214it**]** in section 54 of the Railways Act 1993;**]**

[F215“national authority” means the Secretary of State, the Scottish Ministers or the National Assembly for Wales;**]**

“relevant local authority” means—

(a) a non-metropolitan county or district council in England or in Wales;

(b) a London borough council or the Common Council of the City of London; or

(c) a **[**F216council constituted under section 2 of the Local Government etc. (Scotland) Act 1994**]** in Scotland;

and any reference to a relevant local authority shall be taken to include a reference to any two or more such authorities acting jointly.**]**

(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.

[F217(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.**]**

[F218(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 **[**F219regional 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);

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

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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,. . . F220 or [F221district] in England or Wales;

(b) F222

[F223(bb) a metropolitan county passenger transport authority;]

(c) the Council of the Isles of Scilly; [F224or]

(d) any [F225council constituted under section 2 of the Local Government etc. (Scotland) Act 1994] in Scotland; [F226or

(e) Strathclyde Passenger Transport Authority;]

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

F209 S. 56(2A)(2B) inserted (1.4.1994) by 1993 c. 43, **s. 138(2)**; S.I. 1994/571, **art. 5**

F210 Words in s. 56(2A) substituted (E.W.S.) (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 12 para. 2(3)**; S.I. 2005/1909, art. 2, Sch.

F211 Words in s. 56(2A) substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 1(2)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

F212 S. 56(2B): Definition of "the Franchising Director" omitted (1.2.2001) by virtue of 2000 c. 38, s. 215, **Sch. 16 para. 1(3)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II); and repealed (*prosp.*) by 2000 c. 38, s. 274, **Sch. 31 Pt. IV**

F213 Words in s. 56(2B) repealed (E.W.S.) (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), Sch. 12 para. 2(4)(a), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.

F214 S. 56(2B): Words in definition of "franchising functions" substituted (1.2.2001) by 2000 c. 38, s. 215, **Sch. 16 para. 1(3)**; S.I. 2001/57, art. 3, **Sch. 2 Pt. I** (subject to transitional provsions in Sch. 2 Pt. II)

F215 Words in s. 56(2B) inserted (24.7.2005 for specified purposes; 16.10.2005 in force so far as not already in force) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 12 para. 2(4)(b)**; S.I. 2005/1909, art. 2, Sch.; S.I. 2005/2812, art. 2(1), Sch. 1

F216 S. 56(2B): words in para. (c) in the definition of "relevant local authority" substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(7)(a)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F217 S. 56(3A) inserted (*retrospectively*) by 1993 c. 43, **s. 138(3)**; S.I. 1994/571, **art. 5**

F218 S. 56(4) substituted by Transport Act 1985 (c. 67, SIF 126), s. 139(2), **Sch. 7 para. 12**

F219 Words in s. 56(4)(b) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 80(7)(b), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(c)(d), **Sch. 2**

F220 Words repealed by Local Government Act 1972 (c. 70, SIF 81:1), **Sch. 30**

F221 Word substituted by virtue of Local Government Act 1972 (c. 70, SIF 81:1), **s. 179(3)**

F222 Words repealed by London Regional Transport Act 1984 (c. 32, SIF 126), **s. 71(3)**(*b*), Sch. 7

F223 S. 56(6)(*bb*) inserted by Local Government Act 1985 (c. 51, SIF 81:1), s. 39, **Sch. 12 para. 3(1)**

F224 Word in s. 56(6)(c) ceased to have effect (S.) (20.3.1997) by virtue of S.I. 1997/318, **art. 2(a)**

F225 Words in s. 56(6)(d) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(7)(c)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F226 S. 56(6)(e) and preceding word inserted (S.) (20.3.1997) by S.I. 1997/318, **art. 2(b)**

Modifications etc. (not altering text)

C61 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)**

C62 S. 56(1) excluded by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 2(3), 45, **Sch. 7 Pt. VI para. 2**

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C63 S. 56(1) restricted by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 42(3), 45, **Sch. 7 Pt. VI para. 2**
C64 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.

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.

[F227 57A Grants for research or development in connection with transport services by inland waterways in Scotland

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
F227 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 . . . . . F228

Textual Amendments
F228 S. 58 repealed by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 29**

F229 PART V

Textual Amendments
F229 Pt. V (ss. 59-94) repealed (1.1.1996) by 1995 c. 23, s. 60(2), **Sch. 8 Pt. I** (with ss. 54, 55); S.I. 1995/2181, **art. 2**

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The licensing authority

O perators' licences

[*F313* *Further provisions about operating centres****]***

Operators' licences: supplementary provisions

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Special authorisations for use of large goods vehicles

Enforcement

Supplementary

Abolition of carriers' licensing for certain vehicles

Transitional provisions and amendments

PART VI

DRIVERS' HOURS

Modifications etc. (not altering text)

C82 Pt. VI (ss. 95–103) modified by S.I. 1986/1459, **arts. 2**, 3

C83 Pt. VI (ss. 95-103) excluded (23.6.1999) by S.I. 1999/1736, **art. 8(1)(a)(6)(7)**

C84 Pt. VI modified (16.8.2006) by The Dover Harbour Revision Order 2006 (S.I. 2006/2167), arts. 1(1), **27**

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95 Vehicles and drivers subject to control under Part VI.

(1) This Part of this Act shall have effect with a view to securing the observance of proper hours **[**F374or 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. **[**F375but 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 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.

[F376(c) vehicles not falling within paragraph (a) or (b) of this subsection which—

(i) are vehicles within the meaning given by Article 1 of Council Regulation (EEC) No. 3820/85 of 29th December 1985 on the harmonization of certain social legislation relating to road transport; and

(ii) are not referred to in Article 4 of that Regulation.**]**

(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");

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and in this Part of this Act references to driving by any person are references to his driving as aforesaid.

Textual Amendments

F374 Words inserted with saving by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(d)**

F375 Words substituted with saving by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(d)(5)**

F376 S. 95(2)(c) inserted (24.8.1998) by S.I. 1998/2006, **reg. 2**

Modifications etc. (not altering text)

C85 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.

(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—

(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;

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(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.

(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.

[[F377]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 **[**[F378]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

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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 **[**F379commissioner**]** 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 **[**F379commissioner 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 **[**F380the domestic drivers' hours code**]**, is contravened in the case of any driver—

(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 **[**F381level 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.

[F382(11A) Where, in the case of a driver F383 of a motor vehicle, there is in Great Britain a contravention of any requirement of **[**F384the 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 **[**F381level 4 on the standard scale**]]**

[F385(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

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(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.

[F386(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)**]**

Textual Amendments

F377 Exemption added by S.I. 1970/257, **art. 4**

F378 Words inserted by S.I. 1971/818, **art. 5**(*b*)

F379 Words substituted by Transport Act 1985 (c. 67, SIF 126), s. 3, **Sch. 2 Pt. II para. 1(2)**

F380 Words substituted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(e)**

F381 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**)

F382 S. 96(11A) inserted by European Communities Act 1972 (c. 68), **Sch. 4 para. 9(2)(a)**

F383 Words repealed by S.I. 1986/1457, **reg. 2**

F384 Words substituted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(c)**

F385 S. 96(11B) inserted by Transport Act 1978 (c. 55), **s. 10**

F386 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)

C86 Power to restrict s. 96 conferred by Energy Act 1976 (c. 76), s. 4(2), **Sch. 1 para. 3**

C87 S. 96 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**

C88 S. 96(1)–(6) excluded by S.I. 1986/1458, **art. 2(1)**

[F387**97 Installation and use of recording equipment.**

[No person shall use, or cause or permit to be used, a vehicle to which this section F388(1) applies

[unless there is in the vehicle recording equipment which—

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F389(a)

(i) has been installed in accordance with the Community Recording Equipment Regulation;

(ii) complies with **[**F390the relevant Annexes**]** to that Regulation; and

(iii) is being used as provided by **[**F391Articles 13 to 15**]** of that Regulation;**][**F392, or**]**

[F392(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 **[**F393level 5**]** on the standard scale.**]**

[F394(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) **[**F395(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 **[**F396the relevant Annexes to**]** 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) **[**F395(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

(b) the requirements of **[**F397Article 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) **[**F395(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 **[**F398Articles 13 to 15**]** of the Community Recording Equipment Regulation.

[F399(4A) A person shall not be liable to be convicted under subsection (1)(a) of this section by reason of the driver card not being used with the recording equipment installed in the vehicle in question if he proves to the court that—

(a) the driver card was damaged, malfunctioning, lost or stolen;

(b) the requirements of Article 16(2) and, apart from the last paragraph thereof, Article 16(3) of the Community Recording Equipment Regulation were being complied with; and

(c) in all other respects the recording equipment was being used as provided by Articles 13 to 15 of that Regulation.**]**

(5) For the purposes of this section recording equipment is used as provided by **[**F398Articles 13 to 15**]** of the Community Recording Equipment Regulation if, and

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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—

[F400**[**F401"the Community Recording Equipment Regulation"means Council Regulation (EEC) No. 3821/85 on recording equipment in road transport F402 as it has effect in accordance with—

(a) Commission Regulation (EEC) No. 3314/90F403;

(b) Commission Regulation (EEC) No. 3688/92F404; F405...

(c) Commission Regulation (EC) No. 2479/95F406;

(d) **[**F407Commission Regulation (EC) 1056/97;

(e) Article 1 of Commission Regulation (EC) 2135/98;

(f) Commission Regulation (EC) 1360/2002;

(g) Commission Regulation (EC) 1882/2003;

(h) Commission Regulation (EC) 432/2004; and

(i) any regulations adopted in accordance with the procedure laid down in Article 18 to the Community Recording Equipment Regulation making amendments necessary to adapt the Annexes to that Regulation to technical progress;**]**

and as read with the Community Drivers' Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations 1986 F408;**]**

"recording equipment" means equipment for recording information as to the use of a vehicle.**]]**

[F409"the relevant Annexes" to the Community Recording Equipment Regulation —

(a) in the case of a vehicle put into service for the first time before 1st May 2006 means—

(i) either Annex I or Annex IB to that Regulation; and

(ii) Annex II to that Regulation; and

(b) in the case of a vehicle put into service for the first time on or after that date means—

(i) Annex IB to that Regulation; and

(ii) Annex II to that Regulation.**]**

Textual Amendments

F387 Ss. 97, 97A, 97B substituted for s. 97 by S.I. 1979/1746, **reg. 2**

F388 S. 97(1) substituted by S.I. 1984/144, **reg. 2(1)**

F389 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

F390 Words in s. 97(1)(a)(ii) substituted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **2(2)**

F391 Words substituted by S.I. 1986/1457, **reg. 3(3)**(*a*)

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F392 S. 97(1)(*b*) and word "or" preceding it inserted by S.I. 1989/2121, **art. 2(2)**
F393 Words substituted by S.I. 1989/2121, **art. 2(2)**
F394 S. 97(1A) inserted by S.I. 1989/2121, **art. 2(3)**
F395 "(a)" inserted by S.I. 1989/2121, **art. 2(4)**
F396 Words in s. 97(2) substituted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **2(3)**
F397 Words substituted by S.I. 1986/1457, **reg. 3(3)**(*b*)
F398 Words substituted by S.I. 1986/1457, **reg. 3(3)**(*a*)
F399 S. 97(4A) inserted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **2(4)**
F400 Definition substituted by S.I. 1986/1457, **reg. 3(1)(2)**(*a*)
F401 S. 97(7) substituted (25.4.1996) by S.I. 1996/941, **art. 3(1)(2)(a)**
F402 O.J. No. L370, 31.12.85, p.8.
F403 O.J. No. L318, 17.11.90, p.20.
F404 O.J. No. L374, 22.12.92, p.12.
F405 Word in s. 97(7) omitted (5.8.2005) by virtue of The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **2(6)**
F406 O.J. No. L256, 26.10.95, p.8.
F407 Words in s. 97(7) inserted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **2(7)**
F408 S.I. 1986/1456; the relevant amending instruments are S.I. 1987/805 and S.I. 1988/760.
F409 Words in s. 97(7) substituted (1.5.2006) by The Passenger and Goods Vehicles (Recording Equipment) (Fitting Date) Regulations 2006 (S.I. 2006/1117), regs. 1, **2**

Modifications etc. (not altering text)
C89 S. 97 applied (with modifications) (S.) (4.1.1995) by 1994 c. 39, **s. 40(7)**; S.I. 1994/2850, art. 3(a), **Sch. 2**

[F410 97A Provisions supplementary to section 97.

(1) If an employed [F411 driver] of a vehicle to which section 97 of this Act applies fails—

(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 [F411 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 [F412 level 4 on the standard scale].

(2) If the employer of [F413 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 [F412 level 4 on the standard scale].

(3) Where a [F411 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.]

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Textual Amendments

F410 Ss. 97, 97A, 97B substituted for s. 97 by S.I. 1979/1746, **reg. 2**

F411 Word substituted by S.I. 1986/1457, **reg. 3(3)**(*c*)

F412 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.

F413 Word substituted by S.I. 1986/1457, **reg. 3(3)**(*d*)

Modifications etc. (not altering text)

C90 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**

[F414 97AA Forgery, etc of seals on recording equipment

(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 **[**F415 or 97ZA**]** 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.**]**

Textual Amendments

F414 S. 97AA inserted (23.11.1989) by S.I. 1989/2121, arts. 1, **3**

F415 Words in s. 97AA(1) inserted (26.3.2019) by The Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453), regs. 1(2), **6**

[F416 97B

(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 **[**F417 or print out**]** by a **[**F418 driver**]** for the purposes of **[**F419 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

F416 Ss. 97, 97A, 97B substituted for s. 97 by S.I. 1979/1746, **reg. 2**

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F417 Words in s. 97B(2) inserted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **3**
F418 Word substituted by S.I. 1986/1457, **reg. 3(3)**(*e*)
F419 Words substituted by S.I. 1986/1457, **reg. 3(3)**(*e*)

Modifications etc. (not altering text)
C91 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.

(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 **[**F420including provisions supplementary and incidental to the requirements of **[**F421the applicable Community rules**]** as to **[**F422books, 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 **[**F420or of **[**F421the 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;

(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.

[F423(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 **[**F424which is installed with recording equipment complying with the relevant Annexes (within the meaning of that section)**]**.**]**

(3) Subject to the provisions of any regulations made by the Minister, the traffic **[**F425commissioner**]** 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 **[**F426commissioner thinks**]** fit, but the traffic **[**F425commissioner**]** shall not grant such a

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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 **[**F427or any requirement as to **[**F422books, records or documents**]** of **[**F421the applicable Community rules**]]** shall be liable on summary conviction to a fine not exceeding **[**F428level 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.

[F429(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 **[**F427or of **[**F421the applicable Community rules**]]** shall, in any proceedings under this Part of this Act, be admissible in evidence against his employer.

Textual Amendments

F420 Words inserted by European Communities Act 1972 (c. 68), **Sch. 4 para. 9(2)(c)**

F421 Words substituted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(c)**

F422 Words substituted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(g)**

F423 S. 98(2A) inserted by S.I. 1979/1746, **reg. 3(1)**

F424 Words in s. 98(2A) substituted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **4**

F425 Word substituted by Transport Act 1985 (c. 67, SIF 126), s. 3, **Sch. 2 Pt. II para. 1(3)**

F426 Words substituted by Transport Act 1985 (c. 67, SIF 126), s. 3, **Sch. 2 Pt. II para. 1(3)**

F427 Word inserted by European Communities Act 1972 (c. 68), **Sch. 4 para. 9(2)(a)**

F428 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**)

F429 S. 98(4A) inserted by S.I. 1979/1746, **reg. 3(3)**(*b*)

Modifications etc. (not altering text)

C92 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.

(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;

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(b) any [F430], book or register which that person is required by regulations under section [F430] 98 of this Act to preserve;

[F431](bb) . . . . . .

(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;

[F432](d) . . . . . .

and that [F433]..., 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 **[**[F434]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—

[[F435](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 **[**[F436]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 **[**[F437]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) [F438]... 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

(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 **[**[F439]level 3 on the standard scale**]**.

[[F440](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, [F441]...any entry in a **[**[F442]book, register or document kept or carried**]** for the purposes of regulations under section 98 thereof [F441]... 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

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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) **[**[F443]In this Part of this Act**]** "officer" means **[**[F444]an examiner appointed under section 66A of the Road Traffic Act 1988**]** and any person authorised for the purposes **[**[F445]of this Part**]** by the traffic **[**[F446]commissioner**]** for any area.

(9) The powers conferred by **[**[F447]this Part of this Act on an officer**]** 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 **[**[F448]recording equipment installed**]** 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.

[[F449](11) Subsections (1) to (7) and (10) do not apply in respect of vehicles to which section 97 of this Act applies.**]**

Textual Amendments

F430 Words repealed by S.I. 1979/1746, reg. (3)(3)(*a*)

F431 S. 99(1)(bb) omitted (5.8.2005) by virtue of The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(2)(a)**

F432 S. 99(1)(d) omitted (5.8.2005) by virtue of The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(2)(b)**

F433 Words in s. 99(1) omitted (5.8.2005) by virtue of The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(2)(c)**

F434 Word substituted by Transport Act 1985 (c. 67, SIF 126), s.3, **Sch. 2 Pt. II para. 1(4)**

F435 S. 99(2)(*a*) substituted by S.I. 1979/1746, **reg. 3(4)**(*a*)

F436 Words substituted by S.I. 1979/1746, **reg. 3(4)**(*b*)

F437 Word inserted by S.I. 1979/1746, **reg. 3(4)**(*b*)

F438 Words in s. 99(3) omitted (5.8.2005) by virtue of The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(3)**

F439 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**)

F440 S. 99(4A) inserted by S.I. 1979/1746, **reg. 3(5)**

F441 Words in s. 99(5) omitted (5.8.2005) by virtue of The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(4)**

F442 Words substituted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(h)**

F443 Words in s. 99(8) substituted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(5)(a)**

F444 Words in s. 99(8) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40), s. 48, **Sch. 4 para.2**; S.I. 1992/1286, **art. 2**,Sch.

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F445 Words in s. 99(8) substituted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(5)(b)**

F446 Word substituted by Transport Act 1985 (c. 67, SIF 126), s. 3, **Sch. Pt. II para. 1(4)**

F447 Words in s. 99(9) substituted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(6)**

F448 Words in s. 99(10) substituted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(7)**

F449 S. 99(11) inserted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(8)**

Modifications etc. (not altering text)

C93 S. 99 amended by Road Traffic (Foreign Vehicles) Act 1972 (c. 27), s. 1, **Sch. 1**

C94 S. 99 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**

Commencement Information

I1 S. 99(1)-(9) in force at 1.9.2003 in so far as not already in force by S.I. 2003/1985, **art. 2**

I2 S. 99(10) in force at 1.9.2003 by S.I. 2003/1985, **art. 2**

[F450 99ZA Inspection of records and other documents and data relating to recording equipment

(1) An officer may, on production if so required of his authority, require any person to produce, and permit him to inspect, remove, retain and copy—

(a) if that person is the owner of a vehicle to which section 97 applies, any document of that person which the officer may reasonably require to inspect for the purpose of ascertaining whether the provisions of this Part of this Act have been complied with;

(b) any record sheet or hard copy of electronically stored data which that person is required by the Community Recording Equipment Regulation to retain or to be able to produce;

(c) any book, register or other document required by the applicable Community Rules or which the officer may reasonably require to inspect for the purpose of ascertaining whether the requirements of the applicable Community rules have been complied with.

(2) An officer may, on production if so required of his authority, require any person—

(a) to produce and permit him to inspect any driver card which that person is required by Article 15(7) of the Community Recording Equipment Regulation to be able to produce; and

(b) to permit the officer to copy the data stored on the driver card (and to remove temporarily the driver card for the purpose of doing so) and to remove and retain the copy.

(3) If the officer so requires by notice in writing, anything that a person is required to produce under subsection (1) or (2) of this section shall, instead of being produced when the requirement under those subsections is imposed, be produced at an address specified in the notice, within such time (not being less than ten days) from the service of the notice as is so specified.

(4) Where a notice is served under subsection (3) of this section, the officer may exercise his powers under this section at the place specified in the notice.

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(5) In this Part of this Act any reference to copying data stored on a driver card or on digital recording equipment includes a reference to making a hard copy or an electronic copy of the data (and any reference to copies of data shall be construed accordingly).

(6) In this Part of this Act—

"digital recording equipment" means recording equipment that complies with Annex IB to the Community Recording Equipment Regulation;

"driver card" has the meaning given in that Annex;

"electronic copy" of data means a copy of data stored electronically together with the data's digital signature (within the meaning of that Annex);

"hard copy" in relation to data stored electronically means a printed out version of the data.

[F450 99ZB Power of entry

(1) An officer may, on production if so required of his authority, at any time enter any vehicle to which section 97 of this Act applies in order to inspect that vehicle and any recording equipment in or on it.

(2) Where any officer enters any vehicle under subsection (1) of this section he may—

(a) inspect, remove, retain and copy any record sheet that he finds there on which a record has been produced by means of analogue recording equipment or on which an entry has been made;

(b) inspect, remove, retain and copy any hard copy of data that he finds there which was stored on any digital recording equipment or on a driver card;

(c) inspect, remove, retain and copy any other document that he finds there which the officer may reasonably require to inspect for the purpose of ascertaining whether the requirements of the applicable Community rules have been complied with;

(d) inspect any driver card that he finds there, copy the data stored on it (using any digital recording equipment in or on the vehicle or temporarily removing the driver card for the purpose of copying the data) and remove and retain the copy;

(e) copy data stored on any digital recording equipment that is in or on the vehicle and remove and retain that copy;

(f) inspect any recording equipment that is in or on the vehicle and, if necessary for the purposes of the inspection, remove it from the vehicle;

(g) retain the recording equipment as evidence if he finds that it has been interfered with;

(h) inspect the vehicle for the purpose of ascertaining whether there is in or on the vehicle any device which is capable of interfering with the proper operation of any recording equipment in or on the vehicle;

(i) inspect anything in or on the vehicle which he believes is such a device and, if necessary for the purpose of the inspection, remove it from the vehicle;

(j) retain the device as evidence if he finds that it is capable of interfering with the proper operation of the recording equipment.

(3) Where any officer who is an examiner appointed under section 66A of the Road Traffic Act 1988, or any constable, enters any vehicle under subsection (1) of this section, he may, if he has reason to believe that—

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(a) any recording equipment in or on the vehicle has been interfered with so as to affect its proper operation, or

(b) there is in or on the vehicle any device which is capable of interfering with the proper operation of any recording equipment in or on the vehicle,

require the driver or operator of the vehicle to take it to an address specified by the officer or constable for the purposes of enabling an inspection of the recording equipment, the vehicle or any device in or on it to be carried out.

(4) An officer may, on production if so required of his authority, 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—

(a) a vehicle to which section 97 of this Act applies is kept;

(b) any such document as is mentioned in section 99ZA(1) of this Act is to be found;

(c) any driver card or copy of data previously stored on a driver card or on recording equipment is to be found; or

(d) any digital recording equipment is to be found.

(5) Where any officer enters any premises under subsection (4) of this section he may—

(a) inspect any vehicle which he finds there and to which section 97 of this Act applies;

(b) inspect, remove, retain and copy any such document as is mentioned in section 99ZA(1) of this Act that he finds there;

(c) make a copy of any such copy of data as is mentioned in subsection (4)(c) of this section that he finds there, and remove and retain the copies he makes;

(d) inspect any driver card that he finds there, copy the data stored on it (using any digital recording equipment on the premises or temporarily removing the driver card for the purpose of copying the data) and remove and retain the copy;

(e) copy data stored on any digital recording equipment that he finds there and remove and retain that copy;

(f) inspect any recording equipment that he finds there and, if necessary for the purposes of inspection, remove it from the premises;

(g) retain any such recording equipment as evidence if he finds that it has been interfered with;

(h) inspect anything that he finds there which he believes is a device capable of interfering with the proper operation of any recording equipment and, if necessary for the purpose of the inspection, remove it from the premises;

(i) retain any such device as evidence if he finds that it is capable of interfering with the proper operation of recording equipment.

(6) For the purposes of–

(a) exercising any of his powers under this section in relation to a vehicle or anything found in or on a vehicle, or

(b) exercising any of his powers under section 99ZA(1) or (2) of this Act in respect of a document or driver card carried by the driver of a vehicle,

an officer may detain the vehicle during such time as is required for the exercise of that power.

(7) If—

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(a) at the time when a requirement is imposed under subsection (3) of this section the vehicle is more than five miles from the address specified by the officer or constable to which the vehicle is to be taken; and

(b) the Community Recording Equipment Regulation is found not to have been contravened in relation to the recording equipment, the vehicle or any device in or on it;

the relevant person must pay, in respect of loss occasioned, such amount as in default of agreement may be determined by a single arbitrator (in Scotland, arbiter) agreed upon by the parties or, in default of agreement, appointed by the Secretary of State.

(8) In subsection (7) of this section "relevant person" means—

(a) if the requirement was imposed by an examiner appointed under section 66A of the Road Traffic Act 1988, the Secretary of State, and

(b) if the requirement was imposed by a constable, the chief officer of police for the police area in which the requirement was imposed.

(9) In this Part of this Act "analogue recording equipment" means recording equipment that complies with Annex I to the Community Recording Equipment Regulation.

[F450 99ZC Sections 99ZA and 99ZB: supplementary

(1) Where an officer makes any hard copy of data stored on a driver card or on recording equipment under section 99ZA or 99ZB of this Act he may require a person to sign the hard copy (if necessary with manual corrections) to confirm that it is a true and complete record of his activities during the period covered by it.

(2) Any record sheet, book, register, other document or any electronic copy of data that is retained by an officer under section 99ZA or 99ZB of this Act may only be retained—

(a) for six months; and

(b) if it is required as evidence in any proceedings, any further period during which it is so required.

(3) In sections 99ZA and 99ZB of this Act references to the inspection and copying of any record produced by means of equipment in or on a vehicle include references to the application to the record of any process for eliciting the information recorded by it and to taking down the information elicited from it.

[F450 99ZD Offence of failing to comply with requirements or obstructing an officer

(1) A person commits an offence if he—

(a) fails without reasonable excuse to comply with any requirement imposed on him by an officer under any of sections 99ZA to 99ZC of this Act; or

(b) obstructs an officer in the exercise of his powers under section 99ZB or 99ZF of this Act.

(2) A person guilty of an offence under subsection (1) of this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

[F450 99ZE Offences: false records and data etc.

(1) A person commits an offence—

(a) if he makes, or causes or permits to be made, a relevant record or entry which he knows to be false;

(b) if, with intent to deceive, he alters, or causes or permits to be altered, a relevant record or entry;

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(c) if he destroys or suppresses, or causes or permits to be destroyed or suppressed, a relevant record or entry; or

(d) if he fails without reasonable excuse to make a relevant record or entry, or causes or permits such a failure.

(2) For the purposes of subsection (1) of this section a "relevant record or entry" is—

(a) any record or entry required to be made by or for the purposes of the Community Recording Equipment Regulation or section 97 of this Act; or

(b) any entry in a book, register or document kept or carried for the purposes of the applicable Community rules.

(3) A person commits an offence—

(a) if he records or causes or permits to be recorded any data which he knows to be false on recording equipment or on a driver card;

(b) if he records or causes or permits to be recorded any data which he knows to be false on any hard copy of data previously stored on recording equipment or on a driver card;

(c) if, with intent to deceive, he alters, or causes or permits to be altered, any data stored on recording equipment or on a driver card or appearing on any copy of data previously so stored;

(d) if, with intent to deceive, he produces anything falsely purporting to be a hard copy of data stored on recording equipment or on a driver card;

(e) if he destroys or suppresses, or causes or permits to be destroyed or suppressed, any data stored in compliance with the requirements of the applicable Community rules on recording equipment or on a driver card; or

(f) if he fails without reasonable excuse to record any data on recording equipment or on a driver card, or causes or permits such a failure.

(4) A person guilty of an offence under subsection (1) or (3) of this section consisting otherwise than in permitting an act or omission is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

(5) A person guilty of an offence under subsection (1) or (3) of this section consisting in permitting an act or omission is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) A person commits an offence if he produces, supplies or installs any device—

(a) that is designed to interfere with the proper operation of any recording equipment, or

(b) that is designed to enable the falsification, alteration, destruction or suppression of data stored in compliance with requirements of the applicable Community Rules on any recording equipment or driver's card.

(7) A person commits an offence if without reasonable excuse he provides information which would assist other persons in producing any such device.

(8) A person shall not be liable to be convicted under subsection (6) or (7) of this section if he proves to the court that he produced, supplied or installed the device, or provided information to assist a person in producing a device, for use in connection with the enforcement of the provisions of this Part of this Act.

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(9) A person guilty of an offence under subsection (6) or (7) of this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(10) For the purposes of this section, a person shall be taken to permit an act or omission if he is, or ought reasonably to be, aware of the act or omission, or of it being a likelihood, and takes no steps to prevent it.

[F450 99ZF Power to seize documents

(1) If an officer has reason to believe that an offence under section 99ZE of this Act has been committed in respect of any document inspected by him under section 99ZA or 99ZB of this Act, he may seize that document.

(2) Where a document is so seized, a magistrates' court shall, on an application made for the purpose by that person or by an officer, make such order respecting the disposal of the document and award such costs as the justice of the case may require if–

(a) within six months of the date on which it was seized no person has been charged since that date with an offence under section 99ZE of this Act in relation to that document; and

(b) the document has not been returned to the person from whom it was taken.

(3) Any proceedings in Scotland under subsection (2) of this section shall be taken by way of summary application in the sheriff court.

In the application of that subsection to Scotland the reference to costs shall be construed as a reference to expenses.**]**

Textual Amendments

F450 Ss. 99ZA-99ZF inserted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **6**

[F451 99A Power to prohibit driving of vehicle.

(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 **[**F452or under section 99ZB**]** of this Act or fails to comply with any requirement made by an authorised person under subsection (1) of **[**F453section 99 or under any of sections 99ZA to 99ZC of this Act**]**,

(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) **[**F454or section 99ZE**]** 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.

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(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.

(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 [M25]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 [M26]Vehicle Excise and Registration Act 1994.**]**

Textual Amendments

F451 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)

F452 Words in s. 99A(1)(a) inserted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **7(2)(a)**

F453 Words in s. 99A(1)(a) substituted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **7(2)(b)**

F454 Words in s. 99A(1)(c) inserted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **7(3)**

Marginal Citations

M25 1988 c. 52.

M26 1994 c. 22.

[F455]99B Duration and removal of prohibition.

(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.

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(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 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

F455 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)

F456 99C Failure to comply with prohibition.

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

F456 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.

(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;

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(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 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.

(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 **[**[F457]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.

[[F458](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.

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(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.

Textual Amendments

F457 Words inserted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(i)**

F458 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.

(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.

[F459(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 **[**F460or **[**F461fire brigade**]][**F461fire and rescue authority**]** purposes **[**F462or for or in connection with the exercise of any function of a relevant authority (as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5))**]** .

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Textual Amendments

F459 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)

F460 Words in s. 102(4) repealed (S.) (2.8.2005) by Fire (Scotland) Act 2005 (asp 5), s. 90, **sch. 3 para. 4(a)** (with s. 77); S.S.I. 2005/392, art. 2(k)

F461 Words in s. 102(4) substituted (E.W.) (1.10.2004 except in relation to W., 10.11.2004 for W.) by Fire and Rescue Services Act 2004 (c. 21), s. 61, **Sch. 1 para. 25**; S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2

F462 Words in s. 102(4) inserted (S.) (2.8.2005) by Fire (Scotland) Act 2005 (asp 5), s. 90, **sch. 3 para. 4(b)** (with s. 77); S.S.I. 2005/392, art. 2(k)

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**

[F463 102A Exclusion of application to tramcars and trolley vehicles.

(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

F463 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.

(1) In this Part of this Act—

"agriculture" has the meaning assigned by section 109(3) of the M27 Agriculture Act 1947 or, in relation to Scotland, section 86(3) of the M28 Agriculture (Scotland) Act 1948;

[F464 "analogue recording equipment" has the meaning given by section 99ZB(9) of this Act;]

[F465 "the Community Recording Equipment Regulation" has the same meaning given by section 97(7) of this Act;]

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[F464"copying" and "copies", in relation to data stored on a driver card or digital recording equipment, is to be construed in accordance with section 99ZA(5) of this Act;**]**

[F464"digital recording equipment" has the meaning given by section 99ZA(6) of this Act;**]**

"driver", "employee-driver" and "owner-driver" have the meaning assigned by section 95(3) of this Act;

[F464"driver card" has the meaning given by section 99ZA(6) of this Act;**]**

[F464"electronic copy" of data has the meaning given by section 99ZA(6) 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;

[F464"hard copy" in relation to data stored electronically has the meaning given by section 99ZA(6) of this Act;**]**

[F466 "the applicable Community rules" means any directly applicable Community provision for the time being in force about the driving of road vehicles**]**

[F467 "the domestic drivers' hours code" has the meaning given by section 96(13) of this Act**]**

[F464"officer" has the meaning given by section 99(8) of this Act;**]**

F468"prescribed" means prescribed by regulations made by the Minister;

[F469"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 **[**F470Article 16(2)**]** of the Community Recording Equipment Regulation;**]**

[F467 "relevant Community provision" means any Community provision for the time being in force about the driving of road vehicles, whether directly applicable or not**]**

"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;

[F471"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—

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(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 **[**F472commissioner**]** 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 **[**F473Sunday 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 **[**F474section**]** 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 **[**F4753500 kilograms**]** or (not having a plated weight) has an unladen weight not exceeding **[**F4751525 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.

[F476(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.

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(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

F464 Words in s. 103(1) inserted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **8**

F465 Definition inserted by S.I. 1979/1746, **reg. 3(7)**(*a*)

F466 Words substituted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(a)**

F467 Definitions inserted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(b)**

F468 Definition repealed by Transport Act 1985 (c. 67, SIF 126), s. 139(3), **Sch. 8**

F469 Definitions inserted by S.I. 1979/1746, **reg. 3(7)**(*b*)

F470 Words substituted by S.I. 1986/1457, **reg. 3(3)**(*g*)

F471 Definition substituted by S.I. 1986/1458, **art. 3(1)**

F472 Word substituted by Transport Act 1985 (c. 67, SIF 126), s. 3, **Sch. 2 Pt II para. 1(5)**

F473 Words substituted by S.I. 1986/1458, **art. 3(2)**

F474 Word substituted by S.I. 1979/1746, **reg. 3(8)**

F475 Words substituted by S.I. 1981/1373, **Sch. Pt. III**B

F476 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

M27 1947 c. 48.

M28 1948 c. 45.

PART VII

INLAND WATERWAYS

The Board's waterways

104 Classification of the Board's waterways.

(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

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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 **[**F477or, in the case of a waterway in Scotland, the Scottish Ministers**]** for giving greater precision to that description by reference to a map.

(3) The Minister **[**F478or, in the case of a waterway in Scotland, the Scottish Ministers**]** 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 **[**F479in the case of an order made by the Minister,**]** in pursuance of a resolution of either House of Parliament **[**F480in the case of an order made by the Scottish Ministers, in pursuance of a resolution of the Scottish Parliament.**]**.

(5) In subsection (3) of this section references to any waterway include references to any part of that waterway.

Textual Amendments

F477 Words in s. 104(2) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(17)** (with art. 4)

F478 Words in s. 104(3) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(18)** (with art. 4)

F479 Words in s. 104(4) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(19)(a)** (with art. 4)

F480 Words in s. 104(4) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(19)(b)** (with art. 4)

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.

(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.

(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

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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.

[[F481](3A) In the case of a waterway or any part of a waterway in Scotland, the power of the Minister under subsection (3) above shall be exercisable, instead, by the Scottish Ministers; and where the Scottish Ministers exercise that power, the reference in subsection (4) below to either House of Parliament shall be construed as a reference to the Scottish Parliament.**]**

(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 [M29]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.

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(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 owner, the Board shall have power to authorise any use of the waterway which would have been authorised by that statutory right.

Textual Amendments

F481 S. 105(3A) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(20)** (with art. 4)

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

M29 1873 c. 48.

106 Enforcement of maintenance duty.

(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 **[**[F482]or, in relation to any waterway or any part of a waterway in Scotland, the Scottish Ministers**]** 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 **[**[F483]or, in relation to any waterway or part of a waterway in Scotland, the Scottish Ministers**]** notifies the Board that he is **[**[F483]or, as the case may be, they are**]** 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.

(4) The said certificate is a certificate in writing to the effect that it appears to the Minister **[**F484or, as the case may be, the Scottish Ministers**]** 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 **[**F485or, as the case may be, the Scottish Ministers notify**]** the Board that he is **[**F485or, as the case may be, they are**]**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, **[**F486the Scottish Ministers shall give such notice in**]**, 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.

[F487(8) References in this section to an order made under section 105(3) of this Act include references to such an order made by the Scottish Ministers by virtue of section 105(3A) of this Act.**]**

Textual Amendments

F482 Words in s. 106(2) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(21)** (with art. 4)

F483 Words in s. 106(3) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(22)(a)(b)** (with art. 4)

F484 Words in s. 106(4) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(23)** (with art. 4)

F485 Words in s. 106(5) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(24)(a)(b)** (with art. 4)

F486 Words in s. 106(6) substituted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II**, para. 3(25) (with art. 4)

F487 S. 106(8) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, Sch. 2, **Sch. 2 Pt. II para. 3(26)** (with art. 4)

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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.

(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[F488]

Textual Amendments

F488 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.

(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 [M30]Public Health Act 1936; and

[[F489](b) land to which section 215 of the Town and Country Planning Act 1990 applies;**]**

and the provisions of Part III of the **[**[F490]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 **[**[F491]the said Act of 1990**]** (and not only the local planning authority) shall be entitled to enforce the provisions of **[**[F491]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—

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(a) a watercourse for the purpose of section 16 of the [M31]Public Health (Scotland) Act 1897; and

[[F492](b) land to which section 179 of the Town and Country Planning (Scotland) Act 1997 applies;**]**

and any local authority within the meaning of **[**[F493]the said Act of 1997**]** (and not only the local planning authority) shall be entitled to enforce the provisions of **[**[F494]the said section 179**]** 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 **[**[F495]Part III of the Town and Country Planning Act 1962 or**][**[F496]Part II of the Town and Country Planning (Scotland) Act 1947; and**]** 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

F489 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)**

F490 Words substituted by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(1), **Sch. 15 para. 10(3)**

F491 Words substituted by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 22(2)(a)**

F492 S. 108(2)(b) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 17(1)(a)(i)**

F493 Words in s. 108(2) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(5), **Sch. 2 para. 17(1)(a)(ii)**

F494 Words in s. 108(2) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 17(1)(a)(ii)**

F495 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 22(2)(b)**

F496 By 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 17(1)(b)** it is provided (27.5.1997) that the words "Part II of the Town and Country Planning (Scotland) Act 1947; and" are substituted for the words from "Part II" to "1947; and"

Marginal Citations

M30 1936 c. 49.

M31 1897 c. 38.

109 Power of certain bodies to maintain or take over waterways and connected works. E+W

(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;

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(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;

[F497(b) the National Rivers Authority**]**

(c) a highway authority, not being a local authority;

[F498(d) a public gas supplier within the meaning of Part I of the Gas Act 1986;**]**

[F499(e) a public electricity supplier within the meaning of Part I of the Electricity Act 1989;**]**

[F500(h) a water undertaker;**]**

(j) a **[**F501water 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 **[**F502or, where the particular agreement or transfer relates to a waterway or part of a waterway in Scotland, the Scottish Ministers**]** as a body appearing to him **[**F502or, as the case may be, them**]** 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—

(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;

[F503(b) the National Rivers Authority unless **[**F504the Ministers (for the purposes of Schedule 2 to the Water Resources Act 1991)**]** have consented to the agreement or transfer;**]**. . .

(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) F505. . . of this section (but without prejudice, F505. . .to subsection (3)(a)(ii) of this section), a local **[**F506authority 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 **[**F507authorities who**]** are also parties to the agreement.

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Extent Information

E10 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

Textual Amendments

F497 S. 109(2)(*b*) substituted (E.W.) 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**)

F498 S. 109(2)(*d*) substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1), **Sch. 7 para. 9**

F499 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)**)

F500 S. 109(2)(h) substituted (E.W.) 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)

F501 Words in s. 109(2)(j) substituted by virtue of Local Government (Scotland) Act 1973 (c. 65), **Sch. 17 para. 1**

F502 Words in s. 109(2) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(27)(a)(b)** (with art. 4)

F503 S. 109(3)(b) substituted (E.W.) 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)

F504 Words in s. 109(3)(b) substituted (E.W.) (01.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 19**

F505 Words in s. 109(3)(5) 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)

F506 Words in s. 109(5) substituted (E.W.) 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)

F507 Words in s. 109(5) substituted (E.W.) 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)

Modifications etc. (not altering text)

C109 S. 109(2)(d) amended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(2)(d)**; S.I. 1996/218, **art. 2**

109 Power of certain bodies to maintain or take over waterways and connected works. 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;

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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;

[F807(b) Scottish Water;**]**

(c) a highway authority, not being a local authority;

[F808(d) a public gas supplier within the meaning of Part I of the Gas Act 1986;**]**

[F809(e) a public electricity supplier within the meaning of Part I of the Electricity Act 1989;**]**

(h) any statutory water undertakers as defined in section 59(1) of the M108 Water Act 1945 otherwise than for the purposes of Part II of that Act only;

F810(j) . . . . . .

(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 **[**F811or, where the particular agreement or transfer relates to a waterway or part of a waterway in Scotland, the Scottish Ministers**]** as a body appearing to him **[**F811or, as the case may be, them**]** 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—

(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;

(b) **[**F812Scottish Water unless the Scottish Ministers**]** have consented to the agreement or transfer ;

and the powers under this section of any statutory water undertakers or of **[**F813Scottish Water or of**]** any **[**F814water authority**]** or water development board shall be exercisable only for the purposes of their water undertaking and with the consent of **[**F815the 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) F816... of this section (but without prejudiceF816... to subsection (3)(a)(ii) of this section), a local authority or [**[**F817 water authority**]** 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 authorities (whether local authorities or [**[**F817water authorities)**]**] who are also parties to the agreement.

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Extent Information

E33 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

Textual Amendments

F807 S. 109(2)(b) substituted (S.) (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), **Sch. para. 7(2)(a)(i)**

F808 S. 109(2)(*d*) substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1), **Sch. 7 para. 9**

F809 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)**)

F810 S. 109(2)(j) repealed (S.) (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), **Sch. para. 7(2)(a)(ii)**

F811 Words in s. 109(2) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II**, art. 3(27)(a) (with art. 4)

F812 Words in s. 109(3)(b) substituted (S.) (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), **Sch. para. 7(2)(b)(i)**

F813 Words in s. 109(3) inserted (S.) (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), **Sch. para. 7(2)(b)(ii)**

F814 Words substituted by virtue of Local Government (Scotland) Act 1973 (c. 65), **Sch. 17 para. 1**

F815 Words substituted by virtue of S.I. 1970/1681 arts. 2, 6(3)

F816 Words in s. 109(5) repealed (S.) (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), **Sch. para. 7(2)(c)**

F817 Words substituted by virtue of Water Act 1973 (c. 37), **s. 9(a)**.

Modifications etc. (not altering text)

C185 S. 109(2)(d) amended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(2)(d)**; S.I. 1996/218, **art. 2**

Marginal Citations

M108 1945 c. 42.

110 The Inland Waterways Amenity Advisory Council.

[F508(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 after consultation with the chairman of the Waterways Board.

(1A) The chairman of the Council shall be appointed by the Minister after consultation with the Scottish Ministers and the chairman of the Waterways Board.

(1B) Two of the members of the Council shall be appointed by the Scottish Ministers after consultation with the Minister and the chairman of the Waterways Board; and in making such appointments, the Scottish Ministers shall have regard to the desirability of appointing persons who appear to them to have special knowledge of Scotland.

(1C) The other members of the Council shall be appointed by the Minister after consultation with the chairman of the Waterways Board.

(1D) The members appointed to the Council–

(a) shall include persons who appear to the person making the appointment to have wide knowledge of, and interest in, the use of inland waterways for amenity or recreational purposes, including fishing; and

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(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 **[**F509or, in relation to any waterway in Scotland, the Scottish Ministers**]** 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 **[**F510or, in relation to any waterway in Scotland, the Scottish Ministers**]** 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 **[**F511or, as the case may be, the Scottish Ministers**]**, 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.

(3) The Council shall not make recommendations to the Minister **[**F512or, as the case may be, the Scottish Ministers**]** 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 **[**F513the person who made the appointment**]** resign his office.

(5) The Council may, with the approval of the Minister **[**F514, and after consultation with the Scottish Ministers,**]**, 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.

[F515(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.**]**

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Textual Amendments

F508 S. 110(1)-(1D) substituted (1.4.2001) for s. 110(1) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 3 Pt. II para. 2(2)** (with art. 4)

F509 Words in s. 110(2)(a) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 3 Pt. II para. 2(3)** (with art. 4)

F510 Words in s. 110(2)(b) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 3 Pt. II para. 2(4)** (with art. 4)

F511 Words in s. 110(2) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 3 Pt. II para. 2(5)** (with art. 4)

F512 Words in s. 110(3) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 3 Pt. II para. 2(6)** (with art. 4)

F513 Words in s. 110(4) substituted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 3 Pt. II para. 2(7)** (with art. 4)

F514 Words in s. 110(5) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 3 Pt. II para. 2(8)** (with art. 4)

F515 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.

Subsections (2) and (3) of section 16 of the [M32]Countryside Act 1968 (which enable access agreements and access orders to be made under Part V of the National Parks and Access to the [M33]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

M32 1968 c. 41.

M33 1949 c. 97.

Other inland waterway provisions

112 Power to extinguish statutory rights and obligations in respect of canals not comprised in undertaking of Board.

(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);

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(c) that section 17 of the [M34]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 **[**[F516]**[**[F517]any local authority or **[**[F518]water**]][**[F516]Scottish Water or any local**]** authority**]** in whose**][**[F517]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 **[**[F519]local authority, **[**[F520]a **[**[F518]water authority**]][**[F520]Scottish Water**]** or the**][**[F519]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 [M35]Public Health Act 1936 and **[**[F521]section 215 of the Town and Country Planning Act 1990**]**, or, as the case may be, section 16 of the [M36]Public Health (Scotland) Act 1897 and **[**[F522]section 179 of the Town and Country Planning (Scotland) Act 1997**]** 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.

[[F523](6A) In the case of an order made under this section in respect of any canal in Scotland which is not comprised in the undertaking of the Waterways Board, any reference in this section (however expressed) to the Minister is to be construed as a reference to the Scottish Ministers.**]**

(7[F524]

Textual Amendments

F516 Words in s. 112(2) substituted (S.) (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), **Sch. para. 7(3)(a)**

F517 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)

F518 Words substituted by virtue of Water Act 1973 (c. 37), **s. 9(a)**

F519 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)

F520 Words in s. 112(3)(a) substituted (S.) (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), **Sch. para. 7(3)(b)**

F521 Words substituted by virtue of Planning (Consequential Provisions) Act 1990 (c.11, SIF 123:1, 2), s. 4, **Sch. 2 para. 22(3)**

F522 Words in s. 112(3)(d) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 17(2)**

F523 S. 112(6A) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(28)** (with art. 4)

F524 Ss. 107(4), 112(7) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

Marginal Citations

M34 1873 c. 48.

M35 1936 c. 49.

M36 1897 c. 38.

113 Byelaws in respect of waterways owned or managed by certain bodies.

(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 **[**[F525]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 [M37]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;

“relevant authority”, in relation to any order, **[**[F526]means **[**[F527]any local authority or **[**[F528]water authority**]** (except any such authority which is itself the applicant for the order)**]][**[F527], except where applying for the order, Scottish

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Water or any local authority**][**[F526]means, 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 [M38]Railway 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

F525 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**)

F526 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)

F527 Words in s. 113(5) substituted (S.) (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), **Sch. para. 7(4)**

F528 Words substituted by virtue of Water Act 1973 (c. 37), **s. 9(a)**

Marginal Citations

M37 1963 c. 38.

M38 1888 c. 25.

114 Power of local authorities to assist in maintaining waterways for amenity purposes.

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 [M39]Lands Tribunal Act 1949 come into force as regards Scotland, an official arbiter appointed under Part I of the [M40]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.

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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, F529[F530district] or London borough, F531 and the Common Council of the City of London;

(b)

F532(4F533

Extent Information

E11 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

F529 Words repealed by Local Government Act 1972 (c. 70, SIF 81:1), **Sch. 30**

F530 Word substituted by virtue of Local Government Act 1972 (c. 70, SIF 81:1), **s. 179(3)**

F531 Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**

F532 S. 115(3)(b) omitted by virtue of Local Government (Scotland) Act 1973 (c. 65), **Sch. 18 para. 19**

F533 S. 115(4) repealed by Water Act 1973 (c. 37 SIF 130), Sch. 9

Marginal Citations

M39 1949 c. 42.

M40 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 M109Lands Tribunal Act 1949 come into force as regards Scotland, an official arbiter appointed under Part I of the M110Land 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.

[F818**[** In sections 109, 112 and 113 of this Act "local authority" means a regional or islands F819(3) council and in section 114 of this Act means a regional, islands or district council.**]]**

[F820(3A) In sections 109, 112, 113 and 114 of this Act, "local authority" means, as respects Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994**]**

(4F821

Extent Information

E34 This version of this provision extends to Scotland only; a separate version has been created for England, Wales and Northern Ireland only

Textual Amendments

F818 S. 115(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(9)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F819 S. 115(3) substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 18 para. 19**

F820 S. 115(3A) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(9)**; S.I. 1996/323, **art 4(b)(c)**

F821 S. 115(4) repealed by Water Act 1973 (c. 37 SIF 130), Sch. 9

Marginal Citations

M109 1949 c. 42.

M110 1963 c. 51.

PART VIII

BRIDGES, LEVEL CROSSINGS, ETC.

Bridges

116 Transfer of responsibility for maintenance of highways on bridges over Boards' railways, inland waterways, etc. E+W

(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 **[**F534Transport for London**]** , 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,

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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 highway authority is responsible for maintaining the highway carried by or giving access to a bridge such as is mentioned in subsection (1) of this section; and

(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 highway on that day,

that Board shall not by virtue of that agreement or order be liable to make to that highway authority in respect of the maintenance of that highway any annual or other periodical payment (not being an instalment of a lump sum) which falls due after that day.

(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.

F535(5) . . . . . .

(6) 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 highway, and a highway 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 highway 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 highway any works reasonably required to be carried out by them for discharging that responsibility or for inspecting, 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 highway.

(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 highway before the day on which they cease by virtue of this section to be responsible for its maintenance.

[F536(8) Subsection (9) applies if a network owner is, or but for this section would be, responsible for maintaining—

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(a) a highway carried by a new bridge over its railway or over any other installation or land used by the network owner in connection with its railway, or

(b) that highway together with an access highway.

F536(9) Where—

(a) the highway at each end of the bridge; or

(b) if the network owner is also responsible for maintaining any access highway, the highway at each end of the bridge and any access highway,

is a highway maintainable at the public expense, the highway carried by the bridge, together with any access highway, shall be a highway maintainable at the public expense.

F536(10) In this section—

(a) "access highway", in relation to a bridge, means a highway giving access to the bridge; and

(b) "new bridge" means a bridge constructed after 31st March 1994.

F536(11) Subsections (6) and (7) of this section shall have effect in relation to a network owner and any such bridge of the network owner as is mentioned in subsection (8) above as they have effect in relation to a Board.**]**

Extent Information

E12 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

Textual Amendments

F534 Words in ss. 116-119 substituted (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 4(2)**

F535 S. 116(5) repealed (E.W.) by Local Government Act 1972 (c. 70), **Sch. 30**

F536 S. 16(8)-(11) inserted (20.3.1996) by S.I. 1996/420, art. 2, **Sch. para. 2**

Modifications etc. (not altering text)

C110 S. 116 amended by Transport (London) Act 1969 (c. 35), **Sch. 3 para. 1(1)(2)**

C111 Ss. 116, 117 extended by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 6, 45, **Sch**: 2 para. 21(4)

C112 Ss. 116-118 applied (with modifications) (21.5.1992) by S.I. 1992/1267, **art. 7**.

C113 Ss. 116-118 applied (with modifications) (22.6.1993) by S.I. 1993/1607, **art. 9** (with arts. 8, 12(2), 13, 14)

C114 Ss. 116-118 applied (with modifications) (29.6.1993) by S.I. 1993/1651, **art. 3(4)** (with arts. 6, 8, 9, 10(2))

Ss. 116-118 applied (with modifications) (26.7.1994) by S.I. 1994/1803, **art. 6**

Ss. 116, 117 applied (with modifications) (18.12.1996) by 1996 c. 61, s. 3, **Sch. 3 para. 13**

Ss. 116-118 applied (with modifications) (4.5.1995) by S.I. 1995/1236, **art. 3(5)**

Ss. 116-118 applied (with modifications) (10.5.1995) by S.I. 1995/1300, **art. 3(4)**

Ss. 116-118 applied (with modificatios) (21.9.1995) by S.I. 1995/2501, **art. 8**

Ss. 116-118 applied (with modifications) (16.10.1996) by S.I. 1996/2660, **art. 4(7)**

Ss. 116-118 applied (with modifications) (23.9.1997) by S.I. 1997/2262, **art. 4(3)**

Ss. 116-118 applied (with modifications) (9.10.1997) by S.I. 1997/2534, **art. 7**

Ss. 116-118 applied (with modifications) (21.7.1999) by S.I. 1999/2382, **art. 4(2)**

Ss. 116-118 applied (with modifications) (4.8.2000) by S.I. 2000/2585, **art. 4(2)**

Ss. 116-118 applied (with modifications) (12.8.2002) by S.I. 2002/1997, **art. 9(1)**

C115 Ss. 116-119 applied (with modifications) (1.9.1993) by S.I. 1993/2154, **art. 3(4)**
Ss. 116-119 applied (with modifications) (16.5.2002) by S.I. 2002/1384, **art. 3(4)** (with arts. 10(2), 11)
C116 Ss. 116-119 modified (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 4(4)**
C117 Ss. 116-118 applied (with modifications) (3.8.2004) by The Eden Valley Railway Order 2004 (S.I. 2004/1817), arts. 1, **3(2)**

116 Transfer of responsibility for maintenance of highways on bridges over Boards' railways, inland waterways, etc. 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 **[**F822London 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 **[**F823roads**]** authority is responsible for maintaining the **[**F823road**]**carried by or giving access to a bridge such as is mentioned in subsection (1) of this section; and

(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 **[**F823road**]** on that day,

that Board shall not by virtue of that agreement or order be liable to make to that **[**F823roads**]** authority in respect of the maintenance of that **[**F823road**]** any annual or other periodical payment (not being an instalment of a lump sum) which falls due after that day.

[F824(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—

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(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 [M111]1984.**]**

(6) **[**[F825]Without 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 **[**[F826]road**]**, and a **[**[F826]road**]** 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 **[**[F826]road**]** 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 **[**[F826]road**]** any works reasonably required to be carried out by them for discharging that responsibility or for inspecting, 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 **[**[F826]road**]**.

(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 **[**[F826]road**]** before the day on which they cease by virtue of this section to be responsible for its maintenance.

[[F827](8) Subsection (9) applies if a network owner is, or but for this section would be, responsible for maintaining—

(a) a highway carried by a new bridge over its railway or over any other installation or land used by the network owner in connection with its railway, or

(b) that highway together with an access highway.

[F827](9) Where—

(a) the highway at each end of the bridge; or

(b) if the network owner is also responsible for maintaining any access highway, the highway at each end of the bridge and any access highway,

is a highway maintainable at the public expense, the highway carried by the bridge, together with any access highway, shall be a highway maintainable at the public expense.

[F827](10) In this section—

(a) "access highway", in relation to a bridge, means a highway giving access to the bridge; and

(b) "new bridge"means a bridge constructed after 31st March 1994.

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F827(11) Subsections (6) and (7) of this section shall have effect in relation to a network owner and any such bridge of the network owner as is mentioned in subsection (8) above as they have effect in relation to a Board.]

Extent Information

E35 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

Textual Amendments

F822 Words substituted by virtue of London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 4 Pt. I para. 4(1)**

F823 Words in s. 116(3) substituted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(2)**(*a*)

F824 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)**

F825 Words in s. 116(6) inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(2)**(*c*)(i)

F826 Words in s. 116(6)(7) substituted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(2)**(*c*)(ii)

F827 S. 116(8)-(11) inserted (20.3.1996) by S.I. 1996/420, art. 2, **Sch. para. 2**

Modifications etc. (not altering text)

C116 Ss. 116-119 modified (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 4(4)**

C117 Ss. 116-118 applied (with modifications) (3.8.2004) by The Eden Valley Railway Order 2004 (S.I. 2004/1817), arts. 1, **3(2)**

C186 S. 116 amended by Transport (London) Act 1969 (c. 35), **Sch. 3 para. 1(1)(2)**

C187 Ss. 116, 117 extended by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 6, 45, **Sch. 2 para. 21(4)**

C188 Ss. 116-118 applied (with modifications) (21.5.1992) by S.I. 1992/1267, **art. 7**.

C189 Ss. 116-118 applied (with modifications) (22.6.1993) by S.I. 1993/1607, **art. 9** (with arts. 8, 12(2), 13, 14)

C190 Ss. 116-118 applied (with modifications) (29.6.1993) by S.I. 1993/1651, **art. 3(4)** (with arts. 6, 8, 9, 10(2))
Ss. 116-118 applied (with modidfications) (26.7.1994) by S.I. 1994/1803, **art. 6**
Ss. 116, 117 applied (with modifications) (18.12.1996) by 1996 c. 61, 3, Sch. 3 para. 13
Ss. 116-118 applied (with modifications) (4.5.1995) by S.I. 1995/1236, **art. 3(5)**
Ss. 116-118 applied (with modifications) (10.5.1995) by S.I. 1995/1300, **art. 3(4)**
Ss. 116-118 applied (with modifications) (21.9.1995) by S.I. 1995/2501, **art. 8**
Ss. 116-118 applied (with modifications) (16.10.1996) by S.I. 1996/2660, **art. 4(7)**
Ss. 116-118 applied (with modifications) (23.9.1997) by S.I. 1997/2262, **art. 4(3)**
Ss. 116-118 applied (with modifications) (9.10.1997) by S.I. 1997/2534, **art. 7**
Ss. 116-118 applied (with modifications) (21.7.1999) by S.I. 1999/2382, **art. 4(2)**
Ss. 116-118 applied (with modifications) (4.8.2000) by S.I. 2000/2585, **art. 4(2)**
Ss. 116-118 applied (with modifications) (12.8.2002) by S.I. 2002/1997, **art. 9(1)**

C191 Ss. 116-119 applied (with modifications) (1.9.1993) by S.I. 1993/2154, **art. 3(4)**
Ss. 116-119 applied (with modifications) (16.5.2002) by S.I. 2002/1384, **art. 3(4)** (with arts. 10(2), 11)

Marginal Citations

M111 1984 c. 54**.**

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117 Duty of Boards as respects bridges carrying highways. E+W

(1) This section applies to any bridge which—

(a) carries a highway over one or more of the following that is to say, a railway of the Railways Board, a railway of **[**F534Transport for London**]** , 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.

[F537(1A) This section also applies to a bridge (whenever constructed) which—

(a) carries a highway over—

(i) a railway comprised in a transferred network or a new network of a network owner, or

(ii) any other installation or land used by a network owner in connection with a railway or network comprised in a transferred network or a new network of that network owner, and

(b) belongs to the network owner whose railway, installation or land is crossed by the bridge,

and in relation to any such bridge references in this section to each of the Boards or a Board are, subject to subsection (1B) of this section, to be read as references to the network owner.

F537(1B) Subsection (7) applies in relation to a bridge constructed by or belonging to a network owner and one or more of the Boards mentioned in subsection (1) of this section as it applies in relation to a bridge constructed by or belonging to any two or more Boards.**]**

(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;

(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, when it is opened for traffic.

(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;

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(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 carried by the bridge in question without infringing a prohibition for the time being in force under section 1, 6, **[**F538or 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 M41Railways Clauses Consolidation Act 1845, section 39, 43, 44, 45, or 58 of the M42Railways 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 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 **[**F539,as respects bridges in Scotland, the Scottish Ministers**]** and as respects bridges in F540. . . Wales, the Secretary of State.

Extent Information

E13 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

Textual Amendments

F534 Words in ss. 116-119 substituted (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 4(2)**

F537 S. 117(1A)(1B) inserted (20.3.1996) by S.I. 1996/420, art. 2, **Sch. para. 3**

F538 Words substituted by Road Traffic Regulations Act 1984 (c. 27, SIF 107:1), s. 144, **Sch. 13 para. 7**

F539 Words in s. 117(8) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II**, para. 3(29)(a) (with art. 4)

F540 Words in s. 117(8) repealed (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II**, para. 3(29)(b) (with art. 4)

Modifications etc. (not altering text)

C116 Ss. 116-119 modified (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 4(4)**

Status: *Point in time view as at 16/08/2006.*
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C117 Ss. 116-118 applied (with modifications) (3.8.2004) by The Eden Valley Railway Order 2004 (S.I. 2004/1817), arts. 1, **3(2)**
C118 S. 117 amended by Transport (London) Act 1969 (c. 35), **Sch. 3 para. 1(1)(2)**
C119 Ss. 116, 117 extended by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 6, 45, **Sch. 2 para. 21(4)**
C120 Ss. 116-118 applied (with modifications) (21.5.1992) by S.I. 1992/1267, **art. 7**.
C121 Ss. 116-118 applied (with modifications) (22.6.1993) by S.I. 1993/1607, **art. 9** (with arts. 8, 12(2), 13, 14)
C122 Ss. 116-118 applied (with modifications) (29.6.1993) by S.I. 1993/1651, **art. 3(4)** (with arts. 6, 8, 9, 10(2))
Ss. 116, 117 applied (with modifications) (18.12.1996) by 1996 c. 61, s. 3, **Sch. 3 para. 13**
Ss. 116-118 applied (with modifications) (26.7.1994) by S.I. 1994/1803, **art. 6**
Ss. 116-118 applied (with modifications) (4.5.1995) by S.I. 1995/1236, **art. 3(5)**
Ss. 116-118 applied (with modifications) (10.5.1995) by S.I. 1995/1300, **art. 3(4)**
Ss. 116-118 applied (with modifications) (21.9.1995) by S.I. 1995/2501, **art. 8**
Ss. 116-118 applied (with modifications) (16.10.1996) by S.I. 1996/2660, **art. 4(7)**
Ss. 116-118 applied (with modifications) (23.9.1997) by S.I. 1997/2262, **art. 4(3)**
Ss. 116-118 applied (with modifications) (9.10.1997) by S.I. 1997/2534, **art. 7**
Ss. 116-118 applied (with modifications) (21.7.1999) by S.I. 1999/2382, **art. 4(2)**
Ss. 116-118 applied (with modifications) (4.8.2000) by S.I. 2000/2585, **art. 4(2)**
Ss. 116-118 applied (with modifications (12.8.2002) by S.I. 2002/1997, **art. 9(1)**
C123 Ss. 116-119 applied (with modifications) (1.9.1993) by S.I. 1993/2154, **art. 3(4)**
Ss. 116-119 applied (with modifications) (16.5.2002) by S.I. 2002/1384, **art. 3(4)** (with arts. 10(2), 11)

Marginal Citations
M41 1845 c. 20.
M42 1845 c. 33.

117 Duty of Boards as respects bridges carrying highways. S

(1) This section applies to any bridge which—

(a) carries a **[**F828[road]**]** over one or more of the following that is to say, a railway of the Railways Board, a railway of **[**F829London 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.

[F830(1A) This section also applies to a bridge (whenever constructed) which—

(a) carries a highway over—

(i) a railway comprised in a transferred network or a new network of a network owner, or

(ii) any other installation or land used by a network owner in connection with a railway or network comprised in a transferred network or a new network of that network owner, and

(b) belongs to the network owner whose railway, installation or land is crossed by the bridge,

and in relation to any such bridge references in this section to each of the Boards or a Board are, subject to subsection (1B) of this section, to be read as references to the network owner.

Status: *Point in time view as at 16/08/2006.*
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F830(1B) Subsection (7) applies in relation to a bridge constructed by or belonging to a network owner and one or more of the Boards mentioned in subsection (1) of this section as it applies in relation to a bridge constructed by or belonging to any two or more Boards.**]**

(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;

(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, **[**F831—

(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 **[**F832, 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, **[**F833or 14 of the Road Traffic Regulation Act 1984**]**.

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(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 [M112]Railways Clauses Consolidation Act 1845, section 39, 43, 44, 45, or 58 of the [M113]Railways 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 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 **[**[F834], as respects bridges in Scotland, the Scottish Ministers**]**and as respects bridges in [F835]. . .Wales, the Secretary of State.

Extent Information

E36 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

Textual Amendments

F828 Word in s. 117(1) substituted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54), s. 157(2), **Sch. 9 para. 66(3)(a)**.

F829 Words substituted by virtue of London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 4 Pt. I para. 4(1)**

F830 S. 117(1A)(1B) inserted (20.3.1996) by S.I. 1996/420, art. 2, **Sch. para. 3**

F831 Words in s. 117(3) substituted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(3)**(*b*)

F832 Words inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(3)**(*c*)

F833 Words substituted by Road Traffic Regulations Act 1984 (c. 27, SIF 107:1), s. 144, **Sch. 13 para. 7**

F834 Words in s. 117(8) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(29)(a)** (with art. 4)

F835 Words in s. 117(8) omitted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(29)(b)** (with art. 4)

Modifications etc. (not altering text)

C116 Ss. 116-119 modified (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 4(4)**

C117 Ss. 116-118 applied (with modifications) (3.8.2004) by The Eden Valley Railway Order 2004 (S.I. 2004/1817), arts. 1, **3(2)**

C192 S. 117 amended by Transport (London) Act 1969 (c. 35), **Sch. 3 para. 1(1)(2)**

C193 Ss. 116, 117 extended by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 6, 45, **Sch. 2 para. 21(4)**

C194 Ss. 116-118 applied (with modifications) (21.5.1992) by S.I. 1992/1267, **art. 7**.

C195 Ss. 116-118 applied (with modifications) (22.6.1993) by S.I. 1993/1607, **art. 9** (with arts. 8, 12(2), 13, 14)

C196 Ss. 116-118 applied (with modifications) (29.6.1993) by S.I. 1993/1651, **art. 3(4)** (with arts. 6, 8, 9, 10(2))
Ss. 116, 117 applied (with modifications) (18.12.1996) by 1996 c. 61, s. 3, **Sch. 3 para. 13**
Ss. 116-118 applied (with modifications) (26.7.1994) by S.I. 1994/1803, **art. 6**
ss. 116-118 applied (with modifications) (4.5.1995) by S.I. 1995/1236, **art. 3(5)**

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Ss. 116-118 applied (with modifications) (10.5.1995) by S.I. 1995/1300, **art. 3(4)**
Ss. 116-118 applied (with modifications) (21.9.1995) by S.I. 1995/2501, **art. 8**
Ss. 116-118 applied (with modifications) (16.10.1996) by S.I. 1996/2660, **art. 4(7)**
Ss. 116-118 applied (with modifications) (23.9.1997) by S.I. 1997/2262, **art. 4(3)**
Ss. 116-118 applied (with modifications) (9.10.1997) by S.I. 1997/2534, **art. 7**
Ss. 116-118 applied (with modifications) (21.7.1999) by S.I. 1999/2382, **art. 4(2)**
Ss. 116-118 applied (with modifications) (4.8.2000) by S.I. 2000/2585, **art. 4(2)**
Ss. 116-118 applied (with modifications) (12.8.2002) by S.I. 2000/1997, **art. 9(1)**
C197 Ss. 116-119 applied (with modifications) (1.9.1993) by S.I. 1993/2154, **art. 3(4)**
Ss. 116-119 applied (with modifications) (16.5.2002) by S.I. 2002/1384, **art. 3(4)** (with arts. 10(2), 11)

Marginal Citations

M112 1845 c. 20.
M113 1845 c. 33.

118 Duty of highway authorities, etc., as respects bridges over Boards' railways or inland waterways. E+W

(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 highway over one or more of the following, that is to say, a railway of the Railways Board, a railway of **[**F534Transport for London**]** or an inland waterway of the Waterways Board; and

(b) belongs to the Minister, the Secretary of State, a local highway authority or some other person not being the Board or Boards whose railway or waterway is crossed by the bridge.

[F541(1A) This section also applies to any bridge (whenever constructed) which—

(a) carries a highway over a railway comprised in a transferred network or a new network of a network owner, but

(b) does not belong to the network owner,

and in relation to any such bridge references in this section to any of the said Boards or a Board are to be read as references to the network owner.**]**

(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 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;

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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 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—

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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 22 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)*

(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 [F542]. . ..

Textual Amendments

F534 Words in ss. 116-119 substituted (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 4(2)**

F541 S. 118(1A) inserted (20.3.1996) by S.I. 1996/420, art. 2, **Sch. para. 4**

F542 Words in s. 118(12) repealed (1.1.1993) by New Roads and Street Works Act 1991 (c. 22), s. 168(2), **Sch. 9**; (E.W.) S.I. 1992/2984, art. 2(2), **Sch. 2**.

Modifications etc. (not altering text)

C116 Ss. 116-119 modified (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 4(4)**

C117 Ss. 116-118 applied (with modifications) (3.8.2004) by The Eden Valley Railway Order 2004 (S.I. 2004/1817), arts. 1, **3(2)**

C124 S. 118 amended by Transport (London) Act 1969 (c. 35), **Sch. 3 para. 1(1)(2)**

C125 Ss. 116-118 applied (with modifications) (21.5.1992) by S.I. 1992/1267, **art. 7**.

C126 Ss. 116-118 applied (with modifications) (22.6.1993) by S.I. 1993/1607, **art. 9** (with arts. 8, 12(2), 13, 14)

C127 Ss. 116-118 applied (with modifications) (29.6.1993) by S.I. 1993/1651, **art. 3(4)** (with arts. 6, 8, 9, 10(2))

C128 Ss. 116-119 applied (with modifications) (1.9.1993) by S.I. 1993/2154, **art. 3(4)**
Ss. 116-119 applied (with modifications) (16.5.2002) by S.I. 2002/1384, **art. 3(4)** (with arts. 10(2), 11)
Ss. 116-118 applied (with modifications) (26.7.1994) by S.I. 1994/1803, art.
Ss. 116-118 applied (with modifications) (4.5.1995) by S.I. 1995/1236, **art. 3(5)**
Ss. 116-118 applied (with modifications) (10.5.1995) by S.I. 1995/1300, **art. 3(4)**
Ss. 116-118 applied (with modifications) (21.9.1995) by S.I. 1995/2501, **art. 8**
Ss. 116-118 applied (with modifications) (16.10.1996) by S.I. 1996/2660, **art. 4(7)**
Ss. 116-118 applied (with modifications) (23.9.1997) by S.I. 1997/2262, **art. 4(3)**
Ss. 116-118 applied (with modifications) (9.10.1997) by S.I. 1997/2534, **art. 7**
Ss. 116-118 applied (with modifications) (21.7.1999) by S.I. 1999/2382, **art. 4(2)**

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

Ss. 116-118 applied (with modifications) (4.8.2000) by S.I. 2000/2585, **art. 4(2)**
Ss. 116-118 applied (with modifications) (12.8.2002) by S.I. 2002/1997, **art. 9(1)**

118 Duty of highway authorities, etc., as respects bridges over Boards' railways or inland waterways. 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 **[**F836road**]** over one or more of the following, that is to say, a railway of the Railways Board, a railway of **[**F837London Regional Transport**]** or an inland waterway of the Waterways Board; and

(b) belongs to the Minister, the Secretary of State, a local **[**F838roads**]** authority or some other person not being the Board or Boards whose railway or waterway is crossed by the bridge.

[F839(1A) This section also applies to any bridge (whenever constructed) which—

(a) carries a highway over a railway comprised in a transferred network or a new network of a network owner, but

(b) does not belong to the network owner,

and in relation to any such bridge references in this section to any of the said Boards or a Board are to be read as references to the network owner.**]**

(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 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—

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(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 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

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(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 [F840]. . ..

Textual Amendments

F836 Word in s. 118(1)(a) substituted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(4)**(*a*)

F837 Words substituted by virtue of London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 4 Pt. I para. 4(1)**

F838 Word in s. 118(2)(b) substituted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(4)**(*b*)

F839 S. 118(1A) inserted (20.3.1996) by S.I. 1996/420, art. 2, **Sch. para. 4**

F840 Words in s. 118(12) repealed (1.1.1993) by New Roads and Street Works Act 1991 (c. 22), s. 168(2), **Sch. 9**; (S.) S.I. 1992/2990, art. 2(2), **Sch. 2**.

Modifications etc. (not altering text)

C116 Ss. 116-119 modified (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 4(4)**

C117 Ss. 116-118 applied (with modifications) (3.8.2004) by The Eden Valley Railway Order 2004 (S.I. 2004/1817), arts. 1, **3(2)**

C198 S. 118 amended by Transport (London) Act 1969 (c. 35), **Sch. 3 para. 1(1)(2)**

C199 Ss. 116-118 applied (with modifications) (21.5.1992) by S.I. 1992/1267, **art. 7**.

C200 Ss. 116-118 applied (with modifications) (22.6.1993) by S.I. 1993/1607, **art. 9** (with arts. 8, 12(2), 13, 14)

C201 Ss. 116-118 applied (with modifications) (29.6.1993) by S.I. 1993/1651, **art. 3(4)** (with arts. 6, 8, 9, 10(2))

C202 Ss. 116-119 applied (with modifications) (1.9.1993) by S.I. 1993/2154, **art. 3(4)**
Ss. 116-119 applied (with modifications) (16.5.2002) by S.I. 2002/1384, **art. 3(4)** (with arts. 10(2), 11)
Ss. 116-118 applied (with modifications) (26.7.1994) by S.I. 1994/1803, **art. 6**
Ss. 116-118 applied (with modifications) (4.5.1995) by S.I. 1995/1236, **art. 3(5)**
Ss. 116-118 applied (with modifications) (10.5.1995) by S.I. 1995/1300, **art. 3(4)**
Ss. 116-118 applied (with modifications) (21.9.1995) by S.I. 1995/2501, **art. 8**
Ss. 116-118 applied (with modifications) (16.10.1996) by S.I. 1996/2660, **art. 4(7)**
Ss. 116-118 applied (with modifications) (23.9.1997) by S.I. 1997/2262, **art. 4(3)**
Ss. 116-118 applied (with modifications) (9.10.1997) by S.I. 1997/2534, **art. 7**
Ss. 116-118 applied (with modifications) (21.7.1999) by S.I. 1999/2382, **art. 4(2)**
Ss. 116-118 applied (with modifications) (4.8.2000) by S.I. 2000/2585, **art. 4(2)**
Ss. 116-118 applied (with modifications) (12.8.2002) by S.I. 2002/1997, **art. 9(1)**

119 Ending of liability of Boards to make payments on being relieved of responsibility for bridges carrying trunk or special roads.

(1) Where after the appointed day any **[**[F543]network bridge or**]** bridge belonging to the Railways Board, **[**[F534]Transport for London**]** or the Waterways Board is transferred to

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the Minister or the Secretary of State under **[**F544section **[**F545266 of the M43Highways Act 1980**]** or section 7 of the M44Trunk Roads Act 1946 **[**F545266 of the M45Highways Act 1980 or section 80 of the Roads (Scotland) Act 1984**]]** (bridges carrying highways **[**F546, or as the case may be roads**]** which become trunk roads) or to a special road authority by an order made by virtue of **[**F544section **[**F547267 of the said Act of 1980**]** or section 8 of the M46Special Roads Act 1949**][**F547267 of the said Act of 1980 or section 81 of the said Act of 1984**]** (bridges carrying highways **[**F546, 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 **[**F544section **[**F54855(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**]**, **[**F54855(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, **[**F549repair**]** or improvement of the bridge or the highway **[**F550, or as the case may be road,**]** carried thereby; but

(b) shall not be entitled to receive under **[**F544section **[**F551266(5) or 267(2) of the said Act of 1980**]** or the said section 7(3) or 8(2)**][**F551266(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.

[F552(3) In subsection (1) above "network bridge"means a bridge (whenever constructed) which—

(a) carries a highway over a railway comprised in a transferred network or a new network of a network owner, and

(b) belongs to the network owner.

F552(4) In relation to a network bridge, references in this section to the Boards or a Board are to be read as references to the network owner.**]**

Textual Amendments

F534 Words in ss. 116-119 substituted (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 4(2)**

F543 Words in s. 119(1) inserted (20.3.1996) by S.I. 1996/420, **art. 5**

F544 Words substituted by Highways Act 1980 (c. 66), **Sch. 24 para. 18**

F545 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*)

F546 Words inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(5)**(*b*)

F547 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*)

F548 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*)

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F549 Words repealed (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), 157(2), **Sch. 11**
F550 Words inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(5)**(*d*)
F551 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*)
F552 S. 119(3)(4) inserted (20.3.1996) by S.I. 1996/420, **art. 5**

Modifications etc. (not altering text)
C116 Ss. 116-119 modified (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 4(4)**
C129 S. 119 amended by Transport (London) Act 1969 (c. 35), **Sch. 3 para. 1(1)(2)**
C130 Ss. 116-119 applied (with modifications) (1.9.1993) by S.I. 1993/2154, **art. 3(4)**
Ss. 116-119 applied (with modifications) (16.5.2002) by S.I. 2002/1384, **art. 3(4)** (with arts. 10(2), 11)

Marginal Citations
M43 1980 c. 66.
M44 1946 c. 30
M45 1980 c. 66.
M46 1949 c. 32.

120 . . . . . F553

Textual Amendments
F553 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.

(1) In the foregoing sections of this Part of this Act any reference to the Railways Board, **[**F554Transport for London**]** or the Waterways Board includes a reference to any subsidiary of that Board;. . . F555

(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,. . . F555;
(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.

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[F556(4) An order under the M47Light 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 **[**F557or 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.

[F558(6) Where an order made under subsection (2) **[**F559or 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 **[**F560the M48Highways Act 1980**]** (which relate to the apportionment of expenses) shall apply in relation to that bridge as if—

(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 **[**F560sub-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 **[**F560the M49Highways Act 1980**]** and to **[**F560sub-paragraph (2)(c) of**]** the said paragraph 15 shall be construed as references to the following provisions respectively of the M50Bridges 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. **[**F561; 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

F554 Words in s. 121(1) substituted (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 4(3)**

F555 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F556 S. 121(4) repealed (E.W.) (1.1.1993) by Transport and Works Act 1992 (c. 42), s. 68(1), **Sch. 4 Pt. I**; S.I. 1992/2784, art. 2(b), **Sch. 2 Pt. II** (with art. 3(2)(b))

F557 Words in s. 121(5) repealed (E.W.) (1.1.1993) by Transport and Works Act 1992(c. 42), s. 68(1), Sch. 4 Pt. I; S.I. 1992/2784, art. 2(b), **Sch. 2 Pt. II** (with art. 3(2)(b))

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F558 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**

F559 Words in s. 121(6) repealed (E.W.) (1.1.1993) by Transport and Works Act 1992 (c. 42), s. 68(1), **Sch. 4 Pt. I**; S.I. 1992/2784, art. 2(b), **Sch. 2 Pt. II** (with art. 3(2)(b))

F560 Words substituted by Highways Act 1980 (c. 66), **Sch. 24 para. 18**

F561 Words added (S.) (1.1.1985) by Roads (Scotland) (c. 54, SIF 108), Sch. 9 para. 66(6)

Modifications etc. (not altering text)

C131 S. 121 modified by London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 4 Pt. I para. 4(3)**

C132 S. 121 modified (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 4(4)**

Marginal Citations

M47 1896 c. 48.

M48 1980 c. 66.

M49 1980 c. 66.

M50 1929 c. 33.

122 Interpretations of sections 116 to 121. E+W

(1) Where a railway or an inland waterway passes under a highway by means of a tunnel, or runs in a cutting over which a highway is superimposed, the foregoing provisions of this Part of this Act (except sections 119 and 120) shall, so far as applicable and subject to any necessary modifications, have effect in relation to the highway 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 highway 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 road 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 road.

(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.

[F562(5) In sections 116 to 119 and 121 of this Act, and in this section,—

(a) "network owner" means—

(i) a person in whom is vested a network by virtue of a transfer scheme, or

(ii) a successor in title to any such person;

(b) "new network" means a network constructed or acquired, other than pursuant to a transfer scheme, after 31 March 1994 where any railway line comprised in that network is connected to a railway line comprised in a transferred network;

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

(c) "transferred network" means a network transferred at any time by transfer scheme;

(d) "network" and "transfer scheme" shall be construed in accordance with the Railways Act 1993; and

(e) references to a highway are to be read, in relation to Scotland, as references to a road.**]**

Extent Information

E14 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

F562 S. 122(5) inserted (20.3.1996) by S.I. 1996/420, art. 2, **Sch. para. 6**

122 Interpretations of sections 116 to 121. S

(1) Where a railway or an inland waterway passes under a **[**F841road**]** by means of a tunnel, or runs in a cutting over which a **[**F841road**]** is superimposed, the foregoing provisions of this Part of this Act (except sections 119 and 120) shall, so far as applicable and subject to any necessary modifications, have effect in relation to the **[**F841road**]** 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 **[**F841road**]** 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 **[**F841road**]** 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 **[**F841road**]**.

F842(4) . . . . . .

[F843(5) In sections 116 to 119 and 121 of this Act, and in this section,—

(a) "network owner"means—

(i) a person in whom is vested a network by virtue of a transfer scheme, or

(ii) a successor in title to any such person;

(b) "new network"means a network constructed or acquired, other than pursuant to a transfer scheme, after 31 March 1994 where any railway line comprised in that network is connected to a railway line comprised in a transferred network;

(c) "transferred network"means a network transferred at any time by transfer scheme;

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

(d) "network"and "transfer scheme"shall be construed in accordance with the Railways Act 1993; and

(e) references to a highway are to be read, in relation to Scotland, as references to a road.**]**

Extent Information

E37 This version of this provision extends to Scotland only; a separate version has been created for England and Wales.

Textual Amendments

F841 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*)

F842 S. 122(4) repealed (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), ss. 156(3), 157(2), **Sch. 11**

F843 S. 122(5) inserted (20.3.1996) by S.I. 1996/420, art. 2, **Sch. para. 6**

Level crossings

123 Power of highway and other authorities to contribute to cost of barriers, etc., at level crossings. E+W

(1) Contributions to the expenses incurred by the Railways Board **[**F563or a network owner**]** 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 **[**F563, or, as the case may be, by a railway comprised in a transferred network or a new network of that network owner,**]** may be made by—

(a) the highway authority, if any, for that road; **[**F564and

(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,. . . F565 London borough or county **[**F566district**]**. . . F567 and the Common Council of the City of London **[**F568and "network owner", "new network"and "transferred network"shall be given the meanings in section 122(5) above,**]**and, as respects Scotland, a county council and a town council.

Extent Information

E15 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

F563 Words in s. 123(1) inserted (20.3.1996) by S.I. 1996/420, **art. 2 Sch. para. 7(i)**

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

F566 Word substituted by virtue of Local Government Act 1972 (c. 70, SIF 81:1), **s. 179(3)**

F567 Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**

F568 Words in s. 123(2) inserted (20.3.1996) by S.I. 1996/420, **art. 2 Sch. para. 7(ii)**

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

123 Power of highway and other authorities to contribute to cost of barriers, etc., at level crossings. S

(1) Contributions to the expenses incurred by the Railways Board **[**F844or a network owner**]** 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 **[**F844, or, as the case may be, by a railway comprised in a transferred network or a new network of that network owner,**]** may be made by—

(a) the **[**F845highway**]** authority, if any, for that road; **[**F846and

(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,. . . F847 London borough or county **[**F848district**]**. . . F849 and the Common Council of the City of London **[**F850and "network owner", "new network" and "transferred network"shall be given the meanings in section 122(5) above,**]**and, as respects Scotland, a **[**F851council constituted under section 2 of the Local Government etc. (Scotland) Act 1994**]**.

Textual Amendments

F844 Words in s. 123(1) inserted (20.3.1996) by S.I. 1996/420, **art. 2 Sch. para. 7(i)**

F845 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)**

F846 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*)

F847 Words repealed by Local Government Act 1972 (c. 70, SIF 81:1), **Sch. 30**

F848 Word substituted by virtue of Local Government Act 1972 (c. 70, SIF 81:1), **s. 179(3)**

F849 Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**

F850 Words in s. 123(2) inserted (20.3.1996) by S.I. 1996/420, **art. 2 Sch. para. 7(ii)**

F851 Words in s. 123(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 80(10)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F569F570124 . . . . . .

Textual Amendments

F569 S. 124 repealed (E.W.) (8.7.1996) by Transport and Works Act 1992 (c. 42), ss. 68(1), 70(1), **Sch. 4 Pt. I**; S.I. 1996/1609, arts. 2, 3, **Sch.**

F570 S. 124 repealed (S.) (1.4.1997) by S.I. 1997/487, **reg. 2(1)(b)** (with reg. 2(2))

Inspectors of railways

F571125 . . . . . .

Textual Amendments

F571 S. 125 repealed (10.5.1997) by S.I. 1997/553, reg. 12(1), **Sch. 1**

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

PART IX

REGULATION OF ROAD TRAFFIC

126— 132. . . . . . F572

Textual Amendments

F572 Ss. 126–132 repealed by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), s. 144, **Sch. 14**

133 . . . . . F573

Textual Amendments

F573 S. 133 repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

PART X

MISCELLANEOUS AND GENERAL

Modifications etc. (not altering text)

C133 Pt. X modified (E.W.S.) (16.8.2006) by The Dover Harbour Revision Order 2006 (S.I. 2006/2167), arts. 1(1), **27**

134 Duty to act in certain cases as body engaged in commercial enterprise.

(1) This section applies to the following authorities, namely, the Boards, the new authorities, and the Executive for any **[**F574designated area within the meaning of section 9(1)**][**F574area 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. . . F575, 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), 50(1) (so far as it relates to the provision of facilities at additional premises), and 50(2) to (5).

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

Textual Amendments

F574 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**

F575 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

135 Compensation for loss of employment etc. E+W+S

(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, [F576]. . .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 **[**[F577]an **[**[F578]employment tribunal**]]**.

(5) No regulations shall be made under this section unless a draft thereof has been approved by a resolution of each House of Parliament.

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

(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.

Extent Information

E16 This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

Textual Amendments

F576 Words in s. 135(1)(a) repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), 152(3), **Sch. 14**; S.I. 1994/571, **art. 5**

F577 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** and shall continue to have effect by 1996 c. 17, s. 43, ss. 43, 46, **Sch. 1 para. 1** (with s. 38)
Amendment continued (22.8.1996) by 1996 c. 17, ss. 43, 46, **Sch. 1 para. 1** (with s. 38)

F578 Words in s. 135(4) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)**, (with s. 16(2)); S.I. 1998/1658, art. 2, **Sch. 1**

Modifications etc. (not altering text)

C134 S. 135(1) extended by Transport Act 1978 (c. 55), **s. 15(3)**

135 Compensation for loss of employment etc. N.I.

(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, [F852]. . . 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

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

(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 **[**F853an industrial tribunal**]**.

(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.

Extent Information

E38 This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

Textual Amendments

F852 Words in s. 135(1)(a) repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), 152(3), **Sch. 14**; S.I. 1994/571, **art. 5**

F853 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)

C203 S. 135(1) extended by Transport Act 1978 (c. 55), **s. 15(3)**

136 Pensions.

(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

(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), [F579]. . . 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;

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(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).

Textual Amendments

F579 Words in s. 136(4)(a) repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), 152(3), **Sch.14**; S.I. 1994/571, **art. 5**

Modifications etc. (not altering text)

C135 S. 136(2)(4) extended by Transport Act 1978 (c. 55), **s. 15(4)**

137 Machinery for negotiation and consultation with staff. E+W+S

(1) This section applies to the following authorities, namely—

(a) F580. . .the Waterways Board. . . F581;

(b) the new authorities;

(c) the Executive for any **[**F582area 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

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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 **[**F583Passenger 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 **[**F584relevant 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.

(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.

[F585(7) In this section "the Minister"—

F586(a) . . . . . .

(b) in relation to the Scottish Group, means the Secretary of State for Scotland; and

[F587(c) in relation to the British Waterways Board or any other authority, means **[**F588the Secretary of State for Transport**]**.**]]**

(8) Section 72 of the Act of 1962 shall cease to apply to the Railways Board, the Waterways Board. . . F581

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

Extent Information

E17 This version of this provision extends to England, Wales and Scotland only; a separate version has been created for Northern Ireland only

Textual Amendments

F580 Words in s. 137(1)(a) repealed (6.1.1994) by ss. 150(1)(o), 152(1)(3), Sch. 12 para. 6(7), Sch. 14; S.I. 1993/3237, **art 2(2)**

F581 Words repealed by S.I. 1973/338, **Sch. 2**

F582 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**

F583 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*)

F584 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*)

F585 S. 137(7) substituted by S.I. 1976/1775, **Sch. 3 para. 8**

F586 S. 137(7)(a) repealed (26.1.1998) by S.I. 1997/2971, art. 6(1), **Sch. para. 3(a)**

F587 S. 137(7)(c) substituted (26.1.1998) by 1997/2971, art. 6(1), Sch. para. 3(b)

F588 Words in s. 137(7)(c) substituted (25.11.2002) by S.I. 2002/2626, art. 20, **Sch. 2 para. 5**

Modifications etc. (not altering text)

C136 S. 137 extended by Transport (London) Act 1969 (c. 35), **s. 13**

137 Machinery for negotiation and consultation with staff. N.I.

(1) This section applies to the following authorities, namely—

(a) F854. . ., the Waterways Board. . . F855;

(b) the new authorities;

(c) the Executive for any designated area within the meaning of section 9(1) 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.

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(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 Authority established under the said section 9(1) for the designated area in question,

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 Authority established as aforesaid,

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.

(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.

[F856(7) In this section "the Minister"—

F857(a) . . . . . .

(b) in relation to the Scottish Group, means the Secretary of State for Scotland; and

[in relation to the British Waterways Board or any other authority, means

F858(c) **[**F859the Secretary of State for Transport**].]]**

(8) Section 72 of the Act of 1962 shall cease to apply to the Railways Board, the Waterways Board. . . F855

Extent Information

E39 This version of this provision extends to Northern Ireland only; a separate version has been created for England, Wales and Scotland only

Textual Amendments

F854 Words in s. 137(1) repealed (6.1.1994) by 1993 c. 43, ss. 150(1)(o), 152(1)(3), Sch. 12 para. 6(7), **Sch. 14**; S.I. 1993/3237, **art. 2(2)**

F855 Words repealed by S.I. 1973/338, **Sch. 2**

F856 S. 137(7) substituted by S.I. 1976/1775, **Sch. 3 para. 8**
F857 S. 137(7)(a) repealed (26.1.1998) by S.I. 1997/2971, art. 6(1), **Sch. para. 3(a)**
F858 S. 137(7)(c) substituted (26.1.1998) by S.I. 1997/2971, art. 6(1), **Sch. para. 3(b)**
F859 Words in s. 137(7)(c) substituted (25.11.2002) by S.I. 2002/2626, art. 20, **Sch. 2 para. 5**

Modifications etc. (not altering text)
C204 S. 137 extended by Transport (London) Act 1969 (c. 35), **s. 13**

138 Travel concessions.

. . . . . F589

Textual Amendments
F589 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**

F590 139 Land required as service area for special road: compensation in certain cases of compulsory acquisition.

. . . . . .

Textual Amendments
F590 S. 139 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 14**

140 . . . . . F591

Textual Amendments
F591 S. 140 repealed by Highways Act 1980 (c. 66 SIF 59), Sch. 25

141 Application of Town and Country Planning Acts.

(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 **[**F592area 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

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[F593section 336(1) of the Town and Country Planning Act 1990**]** or in **[**F594section 214 of the Town and Country Planning (Scotland) Act 1997**]**, 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

(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

F592 Words substituted by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 19**

F593 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 22(4)**

F594 Words in s. 141(2) substituted (27.5.1997) by 1997 c. 11, s. 4, **Sch. 2 para. 17(3)**

Modifications etc. (not altering text)

C137 S. 141 amended by Transport (London) Act 1969 (c. 35), **Sch. 3 para 1(1)(2)**

142 Powers of Minister in connection with channel tunnel.

(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 **[**F595the 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 **[**F595Part 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

F595 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 . . . . . F596

Textual Amendments

F596 S. 143 repealed by Statute Law (Repeals) Act 1989 (c. 43), s 1(1), **Sch. 1 Part X**

144 Transfer and disposal of historical records and relics.

(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 **[**F597Transport for London**]**, and no relic having special associations with the undertaking of any relevant authority (that is to say, **[**F597Transport for London**]** 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

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(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, 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 **[**[F597]Transport for London**]** 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.

[[F598]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 **[**[F597]Transport for London**]** .**]**

[[F599](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 **[**[F597]Transport for London**]** —

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(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 **[**F597Transport for London**]** 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 **[**F597Transport for London**]** to any subsidiary in question to any subsidiary of **[**F597Transport for London**].]**

(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—

(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 M51Public 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 M52Public Records (Scotland) Act 1937 as records belonging to Her Majesty.

Textual Amendments

F597 Words in s. 144 substituted (15.7.2003) by Greater London Authority Act 1999 (c. 29), **ss. 301(2)**, 425(2) (with Sch. 12 para. 9(1)); S.I. 2003/1920, art. 2(d)

F598 Paragraph inserted by London Regional Transport Act 1984 (c. 32, SIF 126), **Sch. 4 Pt. I para. 5**(*c*)

F599 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)

C138 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**

C139 S. 144 restricted (1.1.1993) by S.I. 1992/3060, **reg.4(2)**.

C140 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

M51 1958 c. 51.

M52 1937 c. 43.

F600145 Minor amendments of Road Traffic Act 1960.

. . . . . .

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Textual Amendments

F600 S. 145 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 14**

[F601 146 Approval marks.

(1) Section 47 of the M53 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

F601 S. 146 repealed (E.W.)(S.) by Road Traffic Act 1972 (c. 20, SIF 107:1), s. 205, **Sch. 9 Pt. I**

Marginal Citations

M53 1962 c. 59.

147 . . . . . F602

Textual Amendments

F602 S. 147 repealed by Vehicles (Excise) Act 1971 (c. 10, SIF 107:2), s. 39, **Sch. 8 Pt. I**

148 . . . . . F603

Textual Amendments

F603 S. 148 repealed by Road Traffic Act 1972 (c. 20, SIF 107:2), s. 205, **Sch. 9 Pt. I**

Status: *Point in time view as at 16/08/2006.*
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149 . . . . . F604

Textual Amendments

F604 S. 149 repealed by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), s. 144, **Sch. 14**

150 . . . . . F605

Textual Amendments

F605 S. 150 repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. II**

151 . . . . . F606

Textual Amendments

F606 S. 151 repealed by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 29**

152 . . . . . F607

Textual Amendments

F607 S. 152 repealed by Harbours, Piers and Ferries (Scotland) Act 1972 (c. 29, SIF 58), **s. 1(1)**

153 . . . . . F608

Textual Amendments

F608 S. 153 repealed by Dock Work Act 1989 (c. 13, SIF 43:1), s. 7(1), **Sch. 1 Part I**

154 . . . . . F609

Textual Amendments

F609 S. 154 repealed by Statute Law Repeals Act 1981 (c. 19), **Sch. 1**, Pt. VII

155 . . . . . F610

Status: *Point in time view as at 16/08/2006.*
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Textual Amendments

F610 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**

156 Miscellaneous, supplementary and consequential provisions.

(1) With a view to giving the public advance notice of plans for the discontinuance of any rail or shipping services provided by. . . [F611] the Scottish Group or any subsidiary of. . . [F611] or Group, that. . . [F611] Group shall from time to time publish in such manner and in such places in the United Kingdom as. . . [F611] the Secretary of State may direct such information as to their plans as. . . [F611] 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

F611 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

157 Orders and regulations.

Any power to make orders or regulations conferred on any Minister by any provision of this Act shall [F612]... 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.

Textual Amendments

F612 Words in s. 157 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 14**

158 Inquiries.

(1) The Minister may hold inquiries for the purposes of his functions under any provision of this Act [F613]. . . as if those purposes were purposes of the [M54]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.

Textual Amendments

F613 Words in s. 158 repealed (1.4.1995) by 1995 c. 23, s. 60(1)(2), **Sch. 7 para. 4 Sch. 8 Pt. I**; S.I. 1994/3188, **art. 4**

Modifications etc. (not altering text)

C141 S. 158(1) modified (1.6.1993) by S.I. 1993/1119, reg. 4(1)(a), **Sch. 1 para. 2**

Status: *Point in time view as at 16/08/2006.*
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Marginal Citations

M54 1919 c. 50.

159 Interpretation—general.

(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 [M55]Road Traffic Act 1960;

"the Act of 1962" means the [M56]Transport Act 1962;

"appointed day" means the relevant day appointed under section 166(2) of this Act;

[[F614]"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,. . . [F615] the British Transport Docks Board and the British Waterways Board, and references to a Board shall be construed accordingly;

[[F616]"the Bus Company" means the National Bus Company established under section 24 of this Act;

[[F617]**[**[F618]"bus service" means a stage carriage service within the meaning of Part I of **[**[F619]the Public Passenger Vehicles Act **]**[M57] which is neither—

(a) an excursion or tour; nor

(b) a service as regards which the condition specified in **[**[F619]section 2(3)(*a*) of the Public Passenger Vehicles Act 1981**]** (long journeys only) is satisfied;**]]]**

[[F617]"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**]**

[[F620]"carriageway" has the same meaning as in the Roads (Scotland) Act [M58]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;

[[F621]**[**[F618]"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 **[**[F619]Public 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;

[F622]"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—

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(a) for the purposes of the application of this Act to England or Wales, the highway authority for that highway under Part I of **[**F623the M59Highways Act 1980**]**;

[F624(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 **[**F625regional 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 M60Hovercraft 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;

"lease" includes an agreement for a lease;

"liability" includes an obligation;

[F626"local roads authority" has the same meaning as in the Roads (Scotland) Act 1984;**]**

[F627"local service" has the same meaning as in the Transport Act 1985;**]**

F628"the Minister" means, save as otherwise expressly provided and in particular subject to sections F629. . .9(6), 17(6)(a) and 28(6) of this Act, **[**F630the Secretary of State**]**;

"the new authorities" means. . . F631**[**F632the Bus Company and**][**F633the 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 **[**F634section 41 of the Road Traffic Act 1988 or required to be so marked by section 57 or 58 of that Act.**]**;

[F635"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 **[**F619Public Passenger Vehicles Act 1981**]**;

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"the Railways Board" means the British Railways Board established under section 1 of the Act of 1962;

[F636"road" and "roads authority" have the same meanings as in the Roads (Scotland) Act 1984;**]**

[F637"road service licence" has the same meaning as for the purposes of the Act of 1960. . . F638;**]**

[F639"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", **[**F640subject to sections 23A(2) and 51(5)**]** of this Act, have the same meanings respectively as in the Act of 1962;

"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.

[F641(3) In this Act—

(a) any reference to a county (other than one to a metropolitan county) shall be construed in relation to Wales as including a reference to a county borough;

(b) any reference to a county council shall be construed in relation to Wales as including a reference to a county borough council; and

(c) section 17(4) and (5) of the Local Government (Wales) Act 1994 (references to counties and districts to be construed generally in relation to Wales as references to counties and county boroughs) shall not apply.**]**

Textual Amendments

F614 Definition repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 139(3), **Sch. 8**

F615 Words repealed by Transport (London) Act 1969 (c. 35, SIF 126), **Sch. 6**

F616 S. 159(1): definition of "the bus company" repealed (E.W.) (1.4.1991) by S.I. 1991/510, reg. 5, **Sch.**

F617 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*)

F618 Definitions substituted by Transport Act 1980 (c. 34), **Sch. 5 Pt. II**

F619 Words substituted by Public Passenger Vehicles Act 1981 (c. 14, SIF 108), s. 157(2), **Sch. 9 para. 66(10)**(*a*)

F620 Definition inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(10)**(*a*)

F621 Definitions repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 139(3), **Sch. 8**

F622 Definition repealed by Transport Act 1980 (c. 34), **Sch. 9 Pt. III**

F623 Words substituted by Highways Act 1980 (c. 66), **Sch. 24 para. 18**

F624 Paragraph (b) 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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F625 Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 14 para. 76**
F626 Definition inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(10)**(*c*)
F627 Definition inserted (E.W.S.) by Transport Act 1985 (c.67, SIF 126), s. 1, **Sch. 1 para. 1**(*b*)
F628 Definition repealed by Transport (London) Act 1969 (c. 35), **Sch. 6**
F629 S. 159(1): words in definition of "the Minister" repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), 152(3), **Sch. 14**; S.I. 1994/571, **art. 5**
F630 Words substituted by virtue of S.I. 1981/238, **arts. 2(2)**, 3(2)-(4)
F631 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**
F632 S. 159(1): words in definition of "the new authorities" repealed (E.W.) (1.4.1991) by S.I. 1991/510, art. 5, **Sch.**
F633 S. 159(1): words in definition repealed (S.) (7.6.2002) by S.S.I. 2002/263, art. 5(2), **Sch.**
F634 Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 6(8)**
F635 Definition inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(10)**(*d*)
F636 Definition inserted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(10)**(*e*)
F637 Definition repealed (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 139(3), **Sch. 8**
F638 Words repealed by Transport Act 1980 (c. 34), **Sch. 9 Pt. I**
F639 S. 159(1): definition repealed (S.) (7.6.2002) by S.S.I. 2002/263, art. 5(2), **Sch.**
F640 S. 159(1): words in definition of "subsidiary" substituted (1.4.1994) by 1993 c. 43, **s. 36(5)**; S.I. 1994/571, **art. 5**
F641 S. 159(3) added (1.4.1996) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. II para. 35** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Marginal Citations

M55 1960 c. 16.
M56 1962 c. 46.
M57 1981 c. 14**(107:1).**
M58 1984 c. 54**(108).**
M59 1980 c. 66.
M60 1968 c. 59.

160 Stamp duty. E+W+S

(1) Nothing in section 12 of the [M61]Finance Act 1895 (which requires Acts to be stamped as conveyances on sale in certain cases) or in section 52 of the [M62]Finance Act 1946 (which exempts from stamp duty certain documents connected with nationalisation schemes) shall be taken as applying to this Act.

(2) . . . . . [F642]

(4) . . . . . [F643]

(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 **[**[F644]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 [F645]. . .; 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 [M63]Stamp Act

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1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped.

Extent Information

E18 This version of this provison extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

Textual Amendments

F642 S. 160(2)(3) repealed by Finance Act 1988 (c. 39, SIF 114), s. 148, **Sch. 14 Part XI**

F643 S. 160(4) repealed by Finance Act 1973 (c. 51, 63:1:2), s. 59(7), **Sch. 22 Pt. V**

F644 Words in s. 160 substituted by Transport Act 1985 (c. 67, SIF 126), s. 57(6), **Sch. 3 para. 20**

F645 Words in s. 160(5) repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), 152(3), **Sch.14**; S.I. 1994/571, **art. 5**

Marginal Citations

M61 1895 c. 16.

M62 1946 c. 64.

M63 1891 c. 39.

F860 160 Stamp duty. N.I.

(1) Nothing in section 12 of the M114Finance Act 1895 (which requires Acts to be stamped as conveyances on sale in certain cases) or in section 52 of the M115Finance Act 1946 (which exempts from stamp duty certain documents connected with nationalisation schemes) shall be taken as applying to this Act.

(2) F861

(4) F862

(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 established under section 9(1) of this Act as having been made or executed in pursuance of Schedule 4 to this Act F863. . .; 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 M116Stamp 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

F860 This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

F861 S. 160(2)(3) repealed by Finance Act 1988 (c. 39, SIF 114), s. 148, **Sch. 14 Part XI**

F862 S. 160(4) repealed by Finance Act 1973 (c. 51, 63:1:2), s. 59(7), **Sch. 22 Pt. V**

F863 Words in s. 160(5) repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), 152(3), **Sch. 14**; S.I. 1994/571, **art. 5**

Marginal Citations

M114 1895 c. 16.

M115 1946 c. 64.

Status: *Point in time view as at 16/08/2006.*
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M116 1891 c. 39.

[F646]161 Income tax, etc.

. . . . . .

Textual Amendments

F646 S. 161 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 14**

162 Rating.

[[F647](1) Where any premises are occupied wholly or partly—

(a) for purposes of a subsidiary of the Railways Board, **[**[F648]the 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 [M64]General Rate Act 1967;. . . [F649]

(b) . . . . . [F650]

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). . . [F651] of this subsection, the undertaking of that subsidiary of that Board. . . [F651] 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) . . . . . [F652]

[[F647](3) Notwithstanding anything in subsection (6) or (7) of the said section 32, purposes of the exercise by any of the Boards aforesaid. . . [F651] 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. . . [F651] 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). . . [F651] of this section and partly for other purposes. . . [F651] of such a subsidiary as is so mentioned, then—

[[F647](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 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 [M65]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

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section 124 of the [M66]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.

[[F647](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 [M67]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

F647 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**

F648 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)**

F649 Word repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F650 S. 162(1)(b) repealed by Transport Act 1980 (c. 34), **Sch. 9 Pt. III**

F651 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F652 S. 162(2) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

Modifications etc. (not altering text)

C142 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

M64 1967 c. 9.

Status: *Point in time view as at 16/08/2006.*
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M65 1854 c. 91.
M66 1948 c. 26.
M67 1948 c. 26.

163 Expenses.

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.

(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) F653

Textual Amendments
F653 S. 164(2) repealed by Northern Ireland Constitution Act 1973 (c. 36, SIF 29:3), **Sch. 6 Pt. I**

165 . . . . . F654

Textual Amendments
F654 S. 165 repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

166 Short title and commencement.

(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

(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)

C143 Power of appointment conferred by s. 166(2) not fully exercised

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SCHEDULES

SCHEDULE 1

Sections 1 and 24.

THE NEW AUTHORITIES

1 . . . . . F655

Textual Amendments

F655 Sch. 1 para. 1, Sch. 3 repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F656 2 . . . . . .

Textual Amendments

F656 Sch. 1 para. 2 repealed (G.B.) (1. 4. 1991) by S.I. 1991/510, **reg. 5**,Sch.

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. . . F657

Textual Amendments

F657 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, **[**F658but 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**]**.

Status: *Point in time view as at 16/08/2006.*
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Textual Amendments

F658 Words in Sch. 1 para. 6 repealed (S.) (7.6.2002) by S.S.I. 2002/263, art. 5(2), **Sch.**

SCHEDULE 2

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 **[**F659or 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;. . . F660

Textual Amendments

F659 Words substituted by Transport Act 1978 (c. 55), **s. 15(5)(c)**

F660 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.

[F661 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.**]**

Textual Amendments

F661 Sch. 2 para. 5 repealed (S.) (7.6.2002) by S.S.I. 2002/263, art. 5(2), **Sch.**

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[F662]SCHEDULE 3

Textual Amendments

F662 Sch. 1 para. 1, Sch. 3 repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

SCHEDULE 4

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)

C144 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)
C145 Sch. 4 extended (with modifications) (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 85(5)–(7)**
C146 Sch. 4 applied (with modifications) (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), **s. 129(3)–(5)**
C147 Sch. 4 amended (E.W.S.) by Transport Act 1985 (c. 67, SIF 126), s. 139(1), **Sch. 6 para. 26**
C148 Sch. 4 applied (E.W.S.) by Airports Act 1986 (c. 31, SIF 9), **s. 75(3)–(6)**
C149 Power to modify Sch. 4 conferred (E.W.S.) by Airports Act 1986 (c. 31, SIF 9), **s. 75(5)**
C150 Sch. 4 modified (E.W.S.) by S.I. 1985/1903, **art. 3 Sch. 1** and S.I. 1986/1801 art. 3
C151 Sch. 4 applied (with modifications) by Transport (Scotland) Act 1989 (c. 23, SIF 126), **s. 6(3)**
C152 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

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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 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.

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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.

(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 [M68]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
M68 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.

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Proof of title by certificate

5 In the case of any transfer to which this Schedule applies, a joint certificate. . . [F663] by or on behalf of the Railways Board **[**[F664]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 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

F663 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F664 Words in Sch. 4 para. 5 repealed (S.) (7.6.2002) by S.S.I. 2002/263, art. 5(2), **Sch.**

Restrictions on dealing with certain land

6 If the Minister is satisfied on the representation of the Railways Board,. . . [F665] 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

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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

F665 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 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—

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(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) 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.

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(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.

(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.

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SCHEDULE 5

Section 9.

PASSENGER TRANSPORT AUTHORITIES AND EXECUTIVES

[F666[F667PART I

Textual Amendments

F666 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**

F667 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—

(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;

[F668(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 **[**F669with the approval of the Minister**]** appoint.

Textual Amendments

F668 Para 1(b) repealed (E.W.) by Local Government Act 1972 (c. 70), **Sch. 30**

F669 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 **[**F670one 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

F670 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

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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.**]]**

PART II

The Executive

[[F671]1 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 **[**[F672]establishment of that Authority.**][**[F672]area has been designated**].]**

Textual Amendments

F671 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

F672 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 the Authority for the 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 the Authority for the passenger transport area shall forthwith vacate his membership of the Executive.

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 . . . . . [F673]

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Textual Amendments

F673 Sch. 5 Pt. II para. 5 repealed by Superannuation Act 1972 (c. 11, SIF 101A:1), s. 29(4), **Sch. 8**

PART III

Matters which may be dealt with by order under s. 9(1)

[F674 1 The fixing and notification of the **[**F675 dates on which the Authority and Executive respectively are**][**F675 date on which the Executive is**]** to be established.F676**]**

Textual Amendments

F674 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

F675 Words "date" to "is" substituted (S.) for words "dates" to "are" by Local Government (Scotland) Act 1973 (c. 65), **Sch. 18 para. 21(3)**

F676 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—

[F677**[**F678(a) in accordance with Part I of this Schedule of members of the Authority; and**]]**

(b) by the Authority in accordance with **[**F679 section 9(1)(b)**][**F679 section 9(2)**]** of this Act and Part II of this Schedule of members of the Executive.

Textual Amendments

F677 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

F678 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

F679 "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)**

[F680 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

F680 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

[F681 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.**]**

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Textual Amendments

F681 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 **[**F682the Authority and**]** the Executive **[**F682respectively**]**.

Textual Amendments

F682 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 **[**F683the Authority and**]** the Executive **[**F683respectively**]** 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

F683 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 **[**F684the Authority or**]** the Executive to a committee or to **[**F684the chairman of the Authority or, as the case may be,**]** the Director General of the Executive.

Textual Amendments

F684 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 **[**F685the Authority and**]** the Executive **[**F685respectively**]** 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

F685 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*)

[F68610 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

F686 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

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

11 Provision—

(a) for treating **[**F687the 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 **[**F688designated**][**F688passenger transport**]** area;

(b) as to the fund in the benefits of which any persons who are or have been employed by **[**F687the Authority**]** the Executive or a subsidiary of the Executive are to be entitled to participate;

[F689(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

F687 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

F688 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*)

F689 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

[F690 12 The provision of accommodation for the Authority by the Authority or by the Executive.**]**

Textual Amendments

F690 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 **[**F691the Authority or**]** the Executive, or to persons who are or have been members of **[**F691the Authority or**]** the Executive, or officers or servants of **[**F691the 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

F691 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

[F692 14 The making of reports and the furnishing of information by the Authority and Executive to the Minister.**]**

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

Textual Amendments

F692 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.

[F693 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

F693 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

. . . F694

Textual Amendments

F694 Sch. 6 repealed by Transport Act 1985 (c. 67, SIF 126), ss. 57(6), 139(3), Sch. 3 para. 1, **Sch. 8**

[F695 SCHEDULE 7

Section 28.

BODIES WHOSE SECURITIES ARE TRANSFERRED TO BUS COMPANY

Textual Amendments

F695 Sch. 7 repealed (G.B.) (1. 4. 1991) by S.I. 1991/510, **reg. 5**,Sch.

Aldershot and District Traction Company Limited.

Amalgamated Passenger Transport Limited.

Bath Electric Tramways Limited.

Status: *Point in time view as at 16/08/2006.*
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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.

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.

Status: *Point in time view as at 16/08/2006.*
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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.

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.

[[F696]London Country Bus Services Limited.**]]**

Status: *Point in time view as at 16/08/2006.*
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Textual Amendments

F696 Words added by S.I. 1968/1980, **art. 2**

F697SCHEDULE 8

Section 32.

. . . . . .

Textual Amendments

F697 Sch. 8 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 14**

[F698F699SCHEDULE 8A

TRANSFER OF OPERATING CENTRES]

Textual Amendments

F698 Sch. 8A repealed (1.1.1996) by 1995 c. 23, s. 60(2), **Sch. 8 Pt. I** (with ss. 54, 55); S.I. 1995/2181, **art. 2**

F699 Sch. 8A inserted (*prosp.*) by 1994 c. 40, ss. 50(2), 82, **Sch. 12**

SCHEDULE 9

. . . F700

Textual Amendments

F700 Sch. 9 repealed by Transport Act 1982 (c. 49, SIF 126), **Sch. 6**

F701SCHEDULE 10

Section 94.

. . . . . .

Textual Amendments

F701 Sch. 10 repealed (1.1.1996) by 1995 c. 23, s. 60(2), **Sch. 8 Pt. I** (with ss. 54, 55); S.I. 1995/2181, **art. 2** (with transitional provisions in Sch.)

Status: *Point in time view as at 16/08/2006.*
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SCHEDULE 11

Section 103.

AMENDMENTS CONSEQUENTIAL ON PART VI

. . . F710

Textual Amendments

F710 Words repealed by Employment Act 1980 (c. 42), **Sch. 2**

THE ROAD TRAFFIC ACT M75 1960

Marginal Citations

M75 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".
. . . F711	
Section 247 (destination of fines).	References to. . . F712 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

F711 Entry repealed by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 3, **Sch. 1** (with Sch. 4 paras. 1–3)

F712 Words repealed by Road Traffic Act 1972 (c. 20), s. 205, **Sch. 9 Pt. I**

. . . F712

. . . F713

Textual Amendments

F713 Words repealed by Wages Councils Act 1979 (c. 12), **s. 31(1) Sch. 7**

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SCHEDULE 12

Section 104.

COMMERCIAL AND CRUISING WATERWAYS

PART I

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

CRUISING WATERWAYS

Modifications etc. (not altering text)
C154 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.

[[F714]The Sheffield and Tinsley Canal from its commencement at the Sheffield Canal Basin to its junction with the Sheffield and South Yorkshire Navigation at the tail of the bottom lock at Tinsley.**]**

Textual Amendments

F714 Entry in Sch. 12 Pt. 2 inserted (6.11.1996) by S.I. 1996/2552, **art. 2**

Status: *Point in time view as at 16/08/2006.*
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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.

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

Sections 104, 105 and 112.

ORDER RELATING TO INLAND WATERWAYS

Preliminary

1 F715(0) 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.

[F716(2) In the case of an order made under a provision of this Act mentioned in sub-paragraph (1), any reference in this Schedule (however expressed) to the Minister is to be construed as a reference to the Scottish Ministers.**]**

Textual Amendments

F715 Sch. 13 para. 1(1): para. 1 renumbered as Sch. 13 para. 1 (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. 2 para. 3(30)** (with art. 4)

F716 Sch. 13 para. 1(2) inserted (1.4.2001) by S.I. 2000/3251, arts. 1(2)(b), 2, **Sch. 2 Pt. II para. 3(30)** (with art. 4)

Modifications etc. (not altering text)

C155 Sch. 13 para. 1 modified (1.6.1993) by S.I. 1993/1119, reg. 4(1)(a), **Sch. 1 para. 3(2)**

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

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.

Modifications etc. (not altering text)

C156 Sch. 13 para. 2(1) modified (1.6.1993) by S.I. 1993/1119, **reg. 4** (1)(a), Sch. 1 para. 3(3)

C157 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)

C158 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)

C159 Sch. 13 para. 4 modified (1.6.1993) by S.I. 1993/1119, reg. 4(1)(a), **Sch. 1 para. 3(6)**

Status: *Point in time view as at 16/08/2006.*
Changes to legislation: *Transport Act 1968 is up to date with all changes known to be in force on or before 22 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)*

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—

(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 **[**F717authority or **[**F718a **[**F719water authority**]][**F718Scottish Water**]** ;**][**F717authority 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

F717 "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)

F718 Words in Sch. 13 para. 5(2)(a) substituted (S.) (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), **Sch. para. 7(5)**

F719 Words substituted by virtue of Water Act 1973 (c. 37), **s. 9(a)**

Modifications etc. (not altering text)

C160 Sch. 13 para. 5(1) modified (1.6.1993) by S.I. 1993/1119, reg. 4(1)(a), **Sch. 1 para. 3(7)**

C161 Sch. 13 para. 5(2)(b) modified (1.6.1993) by S.I. 1993/1119, reg. 4(1)(a), **Sch. 1 para. 3(8)**

Status: *Point in time view as at 16/08/2006.*
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Interpretation

6 In this Schedule "cruising craft" has the meaning assigned by section 105(1)(b) of this Act.

Modifications etc. (not altering text)
C162 Sch. 13 para. 6 modified (1.6.1993) by S.I. 1993/1119, reg. 4(1)(a), **Sch. 1 para. 3(9)**

F720F720SCHEDULE 14

Textual Amendments
F720 Sch. 14 repealed by Road Traffic Regulations Act 1984 (c. 27, SIF 107:1), s. 144, **Sch. 14**

. . . F720

SCHEDULE 15

. . . F721

Textual Amendments
F721 Sch. 15 repealed by Statute Law (Repeals) Act 1989 (c.43), s. 1(1), **Sch. 1 Part X**

SCHEDULE 16

SUPPLEMENTARY OR CONSEQUENTIAL PROVISIONS

1, 2. . . . . F722

Textual Amendments
F722 Sch. 16 paras. 1, 2 repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

3 . . . . . F723

Textual Amendments
F723 Sch. 16 para. 3 repealed by Sch. 18 Pt. IV of this Act

4 (1) The power to make bylaws conferred by **[**F724subsection 2 of section 67 of the Act of 1962**]** shall be exercisable F725... by the Railways Board F725....

Status: *Point in time view as at 16/08/2006.*
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F726(2) . . . . . .

F727(3) . . . . . .

F728(4) . . . . . .

[F729(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 F730... F731... shall be deemed to be railways, railway premises, or officers and servants of, or ships (or hovercraft) operated by, that Board F730... F732....**]**

Textual Amendments

F724 Words substituted by Transport Act 1980 (c. 34), **Sch. 7 para. 5**

F725 Words in Sch. 16 para. 4(1) repealed (S.) (7.6.2002) by S.S.I. 2002/263, art. 5(2), **Sch.**

F726 Sch. 16 paras. 4(2), 5(1) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F727 Sch. 16 para. 4(3) repealed (S.) (7.6.2002) by S.S.I. 2002/263, art. 5(2), **Sch.**

F728 Sch. 16 para. 4(4) repealed (S.) (7.6.2002) by S.S.I. 2002/263, art. 5(2), **Sch.**

F729 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,

F730 Sch. 16 para. 4(5): "In Schedule 16(5), the reference to the Scottish Group" repealed (S.) (7.6.2002) by virtue of S.S.I. 2002/263, art. 5(2), **Sch.**

F731 Words in Sch. 16 para. 4(5) omitted (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 4(5)(a)**

F732 Words in Sch. 16 para. 4(5) omitted (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 4(5)(b)**

Modifications etc. (not altering text)

C163 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) F733

(2) The Railways Board may make an agreement with **[**F734the Scottish Group**]** for making available to that **[**F734Group**]** or to any wholly-owned subsidiary of that **[**F734Group**]** 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 M76British 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 **[**F735the Scottish Group or, as the case may be, the subsidiary in question**]** notwithstanding the provisions of section 53(1) of the M77British 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 **[**F736the 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 **[**F736Group**]** were one of the Boards.

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Textual Amendments

F733 Sch. 16 paras. 4(2), 5(1) repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F734 Words substituted by Transport Act 1980 (c. 34), **Sch. 7 para. 6(a)**

F735 Words substituted by Transport Act 1980 (c. 34), **Sch. 7 para. 6(b)**

F736 Words substituted by Transport Act 1980 (c. 34), **Sch. 7 para. 6(c)**

Modifications etc. (not altering text)

C164 Para. 5 extended by Transport (London) Act 1969 (c. 35), **Sch. 3 para. 7**

Marginal Citations

M76 S.I. 1964/1456.

M77 1949 c. xxix.

6 . . . . . F737

Textual Amendments

F737 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. . . F738 to any wholly-owned subsidiary. . . F738 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 M78Criminal Justice Act 1948;

(b) section 22 of the M79Diseases of Animals Act 1950;

(c) section 13(1) of the M80Transport Charges (Miscellaneous Provisions) Act 1954;

(d) F739

(e) F740

(f) F741

(g) F742

(3) The provisions referred to in sub-paragraph (1)(b) of this paragraph are—

(a) sections 54, 55, 56 and 57 of the M81British Transport Commission Act 1949;

(b) section 18 in the Schedule to the M82British Transport Commission Order Confirmation Act 1953;

(c) section 52 of the M83British Transport Commission Act 1953;

(d) section 24 of the M84British Transport Commission Act 1954.

(4) In section 23 of the M85British Railways Act 1964 (which provides for the aforesaid section 54 of the M86British Transport Commission Act 1949 to continue in force in its application to the Railways Board) and in any enactment passed after this Act

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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

F738 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

F739 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**

F740 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**

F741 Para. 7(2)(f) repealed by Highways Act 1980 (c. 66), **Sch. 25**

F742 Para. 7(2)(g) repealed by Theft Act (Northern Ireland) 1969 (c. 16), **Sch. 3 Pt. II**

Modifications etc. (not altering text)

C165 Para. 7(1) amended by Transport (London) Act 1969 (c. 35), **Sch. 3 para. 1(1)(2)**

Marginal Citations

M78 1948 c. 58.
M79 1950 c. 36.
M80 1954 c. 64.
M81 1949 c. xxix.
M82 1953 c. xx.
M83 1953 c. xlii.
M84 1954 c. lv.
M85 1964 c. xvi.
M86 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 ";

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(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 [M87]Docks and Harbours Act 1966 are a subsidiary of one or more of the Docks Board, the Railways Board, the Waterways Board,. . . [F743] 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 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

F743 Words repealed by Transport Act 1980 (c. 34, SIF 126), **Sch. 9 Pt. III**

Modifications etc. (not altering text)

C166 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

M87 1966 c. 28.

9 In the Building Control Act [M88]1966, in the Schedule, for the entry beginning "Any subsidiary" there shall be substituted the following:—

"The National Freight Corporation.

The National Bus Company.

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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)

C167 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

M88 1966 C. 27.

F744 10 . . . . . .

Textual Amendments

F744 Sch. 16 para. 10 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. IX** Group2

11 . . . . . F745

Textual Amendments

F745 Sch. 16 para. 11 repealed by British Railways Act 1987 (c.xxix), ss. 45(9), 47, **Sch. 2 Pt. 5**

12 . . . . . F746

Textual Amendments

F746 Sch. 16 para. 12 repealed by Industry Act 1971 (c. 17, SIF 64), **s. 3(2)**(*b*), Sch. 2 Pt. II

SCHEDULE 17

Section 164.

APPLICATION TO NORTHERN IRELAND

PART I

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.

Status: *Point in time view as at 16/08/2006.*
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Part IV (except sections 39, [F747]. . . 47(1)(a)(ii) and (v), 54 and 56).

Textual Amendments

F747 Word in Sch. 17 Pt. I repealed (1.4.1994) by 1993 c. 43, ss. 150(1)(o), 152(3), **Sch.14**; S.I. 1994/571, **art. 5**

Sections 100 and 101.

Sections 104 to 107 and 110, and so much of section 115 as relates to those sections.

Sections 134, 135, 136, 137, 146, 150,. . . [F748], 160, 161 and 164.

Textual Amendments

F748 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,. . . [F748]

PART II

Modifications

1 In section 10(1)(xxix), the reference to Parliament shall include a reference to the Parliament of Northern Ireland.

[F749]2 . . . . . .

Textual Amendments

F749 Sch. 17 Pt. II para. 2 repealed (N.I.) (1. 4. 1991) by S.I. 1991/761 (N.I. 6) art. 9(2), Sch.2; S.R. 1991/116, **art.2**.

3 In section 135(4)(b), for the reference to a tribunal established under section 12 of the [M89]Industrial Training Act 1964 there shall be substituted a reference to a tribunal established under section 13 of the [M90]Industrial Training Act (Northern Ireland) 1964.

Marginal Citations

M89 1964 c. 16.
M90 1964 c. 18 (N.I.)

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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.

5 In section 160, references to sections 12 and 112 of the [M91]Stamp Act 1891, section 12 of the [M92]Finance Act 1895 and section 8 of the [M93]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
M91 1891 c. 39.
M92 1895 c. 16.
M93 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 [M94]Law of Property Act 1925, there shall be substituted a reference to section 9 of the [M95]Conveyancing Act 1881.

Marginal Citations
M94 1925 c. 20.
M95 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.

[F750]SCHEDULE 18

Textual Amendments
F750 Sch. 18 repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. VI**

Status:
Point in time view as at 16/08/2006.

Changes to legislation:
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