



Transport Act 1968

1968 CHAPTER 73

PART II

PASSENGER TRANSPORT AREAS

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

9 Passenger Transport Areas, Authorities and Executives

- (1) If in the case of any area in Great Britain outside Greater London the Minister considers it expedient for the purpose of securing the provision of a properly integrated and efficient system of public passenger transport to meet the needs of that area, then, subject to subsection (2) of this section, the Minister may by order designate that area for the purposes of this Part of this Act by such name as may be specified in the order and shall by that order provide for the establishment of the following bodies for that area, namely—
- (a) a Passenger Transport Authority (hereafter in this Part of this Act referred to in relation to that area as "the Authority") constituted in accordance with Part I of Schedule 5 to this Act from—
 - (i) persons appointed by local authorities whose areas fall wholly or partly within the area designated by the order (hereafter in this Part of this Act referred to in relation to that area as "councils of constituent areas"), being councils of counties, county boroughs or county districts or, in Scotland, county or town councils ; and
 - (ii) persons appointed by the Minister;
 - (b) a Passenger Transport Executive (hereafter in this Part of this Act referred to in relation to that area as "the Executive ") which shall be a body corporate with perpetual succession and a common seal consisting of—
 - (i) a Director General appointed in accordance with Part II of the said Schedule 5 by the Authority ; and
 - (ii) not less than two nor more than eight other members so appointed by the Authority after consultation with the Director General;

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and any area designated by an order under this subsection is hereafter in this Part of this Act referred to as a " designated area ".

(2) Before making any order under subsection (1) of this section, the Minister shall consult with every such local authority as aforesaid—

- (a) the whole or part of whose area falls within the area designated by the order ;
or
- (b) whose area is contiguous with the area so designated;

and the Minister shall not make such an order until he is satisfied that a reasonable opportunity to make representations with respect to the area to be designated by the order has been afforded to any person providing road passenger transport services by stage carriages within or to and from that area and has considered any representations made by any such person while that opportunity remains available; but in the case of an order made under the said subsection (1) by virtue of section 157 of this Act for the purpose of varying or revoking a previous order under that subsection, unless the variation or revocation affects a provision of that previous order with respect to the limits of the designated area—

- (i) paragraph (b) of this subsection shall not apply ; and
- (ii) the Minister shall not be required to be satisfied as aforesaid.

(3) In the case of each designated area it shall be the general duty—

- (a) of the Authority so to exercise and perform the functions with respect to the general policy to be followed by the Executive conferred on the Authority by the provisions of this Part of this Act, and
- (b) of the Executive so to exercise and perform their functions under this Part of this Act and section 24(2) thereof with respect to the provision of passenger transport services,

as to secure or promote the provision of a properly integrated and efficient system of public passenger transport to meet the needs of that area with due regard to the town planning and traffic and parking policies of the councils of constituent areas and to economy and safety of operation; but this subsection shall not be construed as imposing, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which the Authority or Executive would not otherwise be subject.

(4) Subject and without prejudice to the express provisions of this section and Parts I and II of Schedule 5 to this Act, any order under subsection (1) of this section shall include—

- (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 Minister to be necessary or expedient.

(5) Each of the councils of constituent areas 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 or 6 thereto other than sections 20(6) and (7) and 21(5) shall be construed as a reference to the Secretary of State.

10 General powers of Executive

- (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 is so specified, the 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 the Railways Board in respect of railway passenger services provided by the Board for meeting the needs of persons travelling within that area or between places in that area and places outside that area but within the permitted distance for the purposes of paragraph (ii) of this subsection;
 - (vii) with the approval of the Authority, to make arrangements with any person providing passenger transport services by air for the provision of such services between places in that area or between such places and places outside that area, and to include in such arrangements provision for the making of payments to that person by the Executive ;
 - (viii) to let passenger vehicles on hire with or without trailers for the carriage of goods;
 - (ix) where an undertaking has been—

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- (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;
 - (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

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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 subparagraph (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 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;

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- (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 Acquisition of Land (Authorisation Procedure) Act 1946 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 said Act of 1946 form part of a common, open space or fuel or field garden allotment.
- (5) The Ferries (Acquisition by Local Authorities) Act 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) Act 1937 shall apply to the Executive for a designated area as if that area were a county and the Executive were the council of that county.

- (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 Acquisition of Land (Authorisation Procedure) Act 1946 references to the 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.

11 Financial duty of Executive

- (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 section 13(3) 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.
- (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.

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- (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.

12 Borrowing powers of Executive

- (1) The provisions of this section shall have effect with respect to borrowing by the Executive for a designated 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 the 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 or by way of such contributions as are mentioned in section 17(2)(g) of this Act;
 - (e) for subscribing for or acquiring securities of a body corporate otherwise than by way of investment;
 - (f) for the payment of interest charged to capital account under section 11(3) of this Act;
 - (g) to pay off any debt incurred by the Executive or any liability assumed by or transferred to the Executive in pursuance of this Part of this Act;
 - (h) for making any loan, or fulfilling any guarantee given, in pursuance of the powers conferred by section 10(1)(xviii) of this Act;
 - (j) for any' purpose for which capital moneys are properly applicable, whether or not specified in the foregoing paragraphs of this subsection ;

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

- (4) Each of the councils of constituent areas shall have power to lend money to the Executive and, with the consent of the Minister, to borrow money for that purpose; and where any sum is borrowed by such a council by virtue of this subsection—
- (a) the council shall ensure so far as it is reasonably practicable to do so that having regard to all the circumstances existing at the time when the loan to the Executive is made the rate of interest agreed with the Executive is such that no loss is incurred by the council in respect of that loan to the Executive;

- (b) it shall be lawful for the council to suspend for such period as they may think fit any annual provision required to be made by virtue of any enactment for the time being in force for the repayment of that sum.
- (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.
- (6) The provisions of this section shall have effect subject to any order made under section 1 of the Borrowing (Control and Guarantees) Act 1946, and for the purposes of that Act and any such order the Executive shall be deemed to be a local authority within the meaning of that Act.
- (7) The Executive shall be deemed to be a local authority for the purposes of—
 - (a) the enactments relating to loans by or borrowing from the Public Works Loan Commissioners;
 - (b) section 203 of the Local Government Act 1933 and section 278 of the Local Government (Scotland) Act 1947 (which relieve lenders from making certain inquiries).

13 Power for Authority to precept for Executive

- (1) Subject to subsection (4) of this section, the Authority for a designated area may issue precepts to those councils of constituent areas who are rating authorities for the levying of rates by those rating authorities to produce such sums respectively as may be determined by the Authority in accordance with subsection (2) of this section, being sums of such aggregate amount as the Authority think fit—
 - (a) towards any deficit which has been, or which, on the basis of estimates by the Executive which have been approved by the Authority, it is estimated will be, incurred in respect of any accounting period of the Executive on the revenue account of the Executive, or on the combined revenue accounts of the Executive and any subsidiaries of theirs, other than any part of that deficit which is the subject of an undertaking given by the Authority under section 15(3) of this Act;
 - (b) towards the implementation of any such undertaking as aforesaid;and each of those rating authorities shall pay the amount due under the precept to the Executive.
- (2) Any such precept shall be so issued as to require the levying in each rating area falling wholly or partly within the designated area of a rate of such amount in the pound as will produce an amount bearing to the aggregate amount required by the Authority the same proportion as the product of a rate of one penny in the pound for so much of that rating area as falls within the designated area bears to the product of such a rate for the whole of the designated area ; and the rating authority for a rating area which falls only partly within the designated area may, as they think fit, levy rates to satisfy the precept either on the whole of the rating area or only on such part thereof as falls within the designated area.

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- (3) The Authority shall from time to time by notice in writing to the Executive specify the amounts for which the Authority propose to issue precepts under this section in respect of expenditure incurred during any accounting period.
- (4) The Minister may by order made either generally or as respects a particular designated area restrict the aggregate amount for which the Authority may issue precepts under this section during any accounting period or series of accounting periods of the Executive.
- (5) The power of the Minister of Housing and Local Government to make rules under section 113 of the General Rate Act 1967 shall include power to make rules with respect to precepts under this section.
- (6) Section 11 of the General Rate Act 1967 shall not apply to a precept under this section; and section 15 of that Act shall have effect for the purposes of such a precept as if any reference in that section to the precepting authority were a reference to the Executive.
- (7) Expenditure by any rating authority to meet a precept under this section shall not be relevant expenditure of that authority for the purposes of section 1 of the Local Government Act 1966.
- (8) In the application of this section to a rating area in Scotland—
 - (a) references to a precept shall be construed as references to a requisition, and references to the issue of a precept for the levying of a rate shall be construed as references to the issue of a requisition to be met by the levying of a rate;
 - (b) the provisions of Part XI of the Local Government (Scotland) Act 1947 shall apply to any requisition made or rates levied under this section with such adaptations and modifications as the Secretary of State may by regulations prescribe ;
 - (c) expenditure by any rating authority in paying any requisition under this section shall not be reckonable expenditure of the authority for the purposes of section 2 of the Local Government (Scotland) Act 1966.

14 Accounts of Executive

- (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 who is a member, or is a firm in Scotland each of the partners wherein is a member, of one or more of the following bodies, namely—
 - the Institute of Chartered Accountants in England and Wales;
 - the Institute of Chartered Accountants of Scotland;
 - the Association of Certified and Corporate Accountants;
 - the Institute of Chartered Accountants in Ireland;

the Institute of Municipal Treasurers and Accountants;
any other body, being a body of accountants established in the United Kingdom who are for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 by the Board of Trade;
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.

15 Further functions of Authority

- (1) The Executive for a designated area shall submit to the Authority and obtain the Authority's approval of—
- (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 the Railways Board for the provision by the Board of any railway passenger services within, or to and from, that area ;
- (2) The Executive shall obtain the approval of the Authority—
- (a) before making, or authorising or consenting to the making of, any alteration in the general level of charges for the transport services or facilities provided by the Executive or any subsidiary of theirs or provided by any person in pursuance of an agreement with the Executive under section 19(2) of this Act; and
 - (b) subject to section 138(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 amount to 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

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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 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.

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

- (1) The Authority for any area designated by an order under section 9(1) of this Act 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 as the Minister may direct, 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 by the order aforesaid 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 which do not, and if section 19(3)(a) of this Act had not been passed would not, require authorisation by a road service licence, 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,

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- 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; and
 - (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.
- (3) If, where the Executive or any subsidiary of theirs carry on such business as aforesaid, it appears at any time to the Minister that, having regard to all the circumstances appearing to the Minister to be relevant, the charges made for the services aforesaid provided by the Executive or subsidiary are unduly low in comparison with the cost of providing them, the Minister shall, after consultation with the Authority and with the Executive, either—
- (a) direct the Executive to make, or, as the case may be, to ensure that the subsidiary makes, such modifications in their or its method of conducting that business as may be specified in the direction; or
 - (b) direct the Executive to discontinue, or, as the case may be, to ensure that the subsidiary discontinues, that business.
- (4) The Minister may by order provide that subsections (2) and (3) of this section shall apply with or without modifications to any specified business of the Executive or any subsidiary of theirs which appears to the Minister to be of a character only subsidiary or incidental to the discharge of the Executive's duty under section 9(3) of this Act and to be carried on on a substantial scale as those subsections apply to the business referred to in the said subsection (2).
- (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.

Reorganisation of passenger transport in Passenger Transport Areas

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 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 ;

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- (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
 - (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

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- 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 Water Officers Compensation Act 1960 (which relates to compensation for loss of employment, etc., attributable to certain orders) shall apply to an order under subsection (1) of this section as it applies to the orders referred to in subsection (1) of that section but as if the definition of " the appropriate Minister " in subsection (4) of that section were omitted and for any other reference in that section to the appropriate Minister there were substituted a reference to the Minister; and the Minister shall exercise as respects any order under subsection (1) of this section the power to make regulations conferred by the said section 1 as applied by this subsection.
- (4) Before making an order under subsection (1) of this section with respect to any designated area the Minister shall consult with any such councils of constituent areas as are referred to in paragraph (a), and any such other bodies as are referred to in paragraph (b), of that subsection; and those councils or bodies shall furnish the Minister with such information as he may reasonably require for the purpose of making the order.
- (5) Subject to subsection (6) of this section, any property or interests in property, rights and liabilities for the transfer of which provision is made by an order under subsection (1) of this section shall on the date appointed for the purpose by the order be transferred, and by virtue of this Act vest, in accordance with the order.
- (6) Schedule 4 to this Act shall apply to any transfer under subsection (5) of this section and that subsection shall have effect subject to the provisions of that Schedule ; but—
- (a) for the purposes of an order under subsection (1) of this section with respect to an area in Scotland or Wales, any reference in that Schedule to the Minister shall be construed as a reference to the Secretary of State;
 - (b) any order under the said subsection (1) may make modifications in that Schedule for the purposes of its application to a transfer effected by that order.

18 Planning of passenger transport services in designated areas

- (1) Within twelve months or such longer period as the Minister may allow from the date of the establishment of the Authority for a designated area, the Authority and the Executive shall jointly prepare, and the Authority shall cause to be published in such

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manner as appears to them appropriate for informing persons appearing to them to be likely to be concerned, a statement setting out in general terms the policies which the Authority and the Executive intend to follow, and any action they have taken or propose to take, with a view to the discharge of their duties under section 9(3) of this Act, and that statement shall in particular deal with the following matters, that is to say—

- (a) the organisation, and any proposals for the further development, of the Executive's own undertaking so far as it relates to the provision of passenger transport services within, to and from that area;
- (b) any proposals for the organisation of undertakings transferred to the Executive under section 17 of this Act as subsidiaries of the Executive, and any proposals for associating with the direction of any such subsidiary persons appointed from among members of the councils of the constituent areas in which that subsidiary operates;
- (c) the nature of any agreements which the Executive have made or propose to make with, or with any subsidiary of, the Bus Company or Scottish Group for the provision of bus services within, to and from that area, and the extent to which the Executive have made or propose to make such agreements with any other person who is providing such bus services;
- (d) if the area is an area to which section 20 of this Act applies, any steps taken or proposed to be taken by the Executive for the purpose of discharging their special duty under subsection (2) of that section ;
- (e) if the area is not an area to which the said section 20 applies, any proposed exercise by the Executive of their powers under section 10(1)(vi) or (xv) of this Act with a view to securing the provision of railway passenger services required to meet the needs of the area;
- (f) the financial position and prospects of the Executive;
- (g) the steps taken by the Executive to comply with the requirements of section 137 of this Act;
- (h) the state of preparation of the plan required by subsection (2) of this section;
- (j) the machinery for securing co-ordination between—
 - (i) the planning and operation of the road passenger transport services to be provided by the Executive or subsidiaries of theirs, or in pursuance of agreements with the Executive, or with the consent of the Executive granted under Schedule 6 to this Act; and
 - (ii) the preparation and execution by the councils of constituent areas of any plans and policies of those councils with respect to traffic regulation or parking;

and the Authority shall send a copy of the statement prepared by them and the Executive under this subsection to the Minister and to each of the councils of constituent areas.

- (2) Not later than two years or such longer period as the Minister may allow from the date of the establishment of the Executive for a designated area, the Executive shall prepare, and the Authority shall cause to be published in such manner as appears to them appropriate for informing persons appearing to them to be concerned, a plan approved by the Authority describing the proposals of the Executive for the future development of the passenger transport system to be provided for the area in the discharge of the Executive's duty under section 9(3) of this Act; and in preparing that plan the Executive shall have regard to any exercise or proposed exercise by a local planning authority of any of their functions in connection with the development of, or

of any area in the vicinity of, the Executive's designated area or any part thereof; and the Executive shall send a copy of the plan prepared by them under this subsection to the Minister and to each of the councils of constituent areas.

- (3) On causing the statement under subsection (1) or the plan under subsection (2) of this section to be published, the Authority shall also cause to be published in the London Gazette or, in the case of an Authority in Scotland, in the Edinburgh Gazette, and, in either case, in one or more newspapers circulating in their area, notice of the publication of the statement or plan; and that notice shall include particulars of a place at which and the days on which that statement or plan will be available at all reasonable hours for inspection by any member of the public and of the manner in which further copies of that statement or plan can be purchased or otherwise obtained.

19 Transfer of control of bus services to Executive

- (1) At any time after the Minister has received from the Authority for a designated area a copy of the statement prepared by that Authority and the Executive for that area under section 18(1) of this Act, the Minister may by order direct that this section shall apply to that area as from such date as may be appointed by the order.
- (2) As from the date appointed in relation to any area under subsection (1) of this section, no person other than the Executive or a subsidiary of theirs shall provide an area bus service in that area except in pursuance of an agreement with the Executive or, in the case of an existing service within the meaning of Schedule 6 to this Act, with the consent of the Executive granted under that Schedule; but in the case of a service part only of which is operated as an area bus service in that area any provision with respect to the carriage of passengers other than those who are both taken up and set down in that area which is contained in any such agreement shall be of no effect if or so far as it is inconsistent with any condition for the time being attached to any road service licence under which the service is provided.
- (3) Notwithstanding anything in Part III of the Act of 1960—
- (a) no road service licence shall be required for the provision of any bus service operated wholly within an area to which this section applies ; and
 - (b) where such a licence is granted in respect of a bus service operated in part as an area bus service in such an area, no condition shall be attached to the licence with respect to the carriage of passengers who are both taken up and set down in that area;

and, on the day on which this section first applies to any particular designated area, any such licence in force immediately before that date, if or so far as that licence relates to the operation of an area bus service in that area, and any condition attached to such a licence, if or so far as that condition relates to the carriage of passengers who are both taken up and set down in that area, shall cease to have effect.

- (4) If any person provides a bus service in contravention of subsection (2) of this section, he shall be liable on summary conviction to a fine not exceeding £200; but in England or Wales proceedings for an offence under this subsection shall not be instituted except by or on behalf of the Director of Public Prosecutions, or by or with the authority of the Executive for a designated area or a chief officer of police.

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

- (1) If in the case of any designated area the Minister considers that railway passenger services have a particularly important contribution to make to the provision of a properly integrated and efficient system of public passenger transport for that area, he may by order direct that this section shall apply to that area.
- (2) Without prejudice to their general duty under section 9(3) of this Act, it shall be the special duty of the Executive for a designated area to which this section applies—
 - (a) to review as soon as may be, and subsequently keep under review, the railway passenger services provided by the Railways Board for meeting the needs of persons travelling between places in that area or between such places and places outside that area but within the permitted distance for the purposes of section 10(1)(ii) of this Act as it applies to that Executive ; and
 - (b) without prejudice to the general powers of the Executive under section 10 of this Act, to enter into such agreements with that Board as the Authority may approve for securing that the Board provide such railway passenger services as the Authority decide to be necessary to ensure that such services make a proper contribution towards the provision for that area of such a system of public passenger transport as is referred to in section 9(1) of this Act.
- (3) The Railways Board shall furnish the Executive with any information which the Executive may reasonably require for the purposes of the discharge of their functions under subsection (2) of this section.
- (4) Without prejudice to the general power of the Executive under section 10(1)(vi) of this Act, any agreement under this section may include provision for the making of payments by the Executive to the Railways Board in respect of the railway passenger services provided by the Board in pursuance of the agreement.
- (5) Before entering into any agreement under this section, the Executive shall send a copy of the proposed agreement to the Minister; but a failure to comply with this subsection shall not affect the validity of the agreement.
- (6) If any dispute arises between the Executive and the Railways Board in connection with the provisions of subsection (2) or (3) of this section, either of them may require the dispute to be referred to the Minister for determination, and any agreement under the said subsection (2) may include provision for any dispute in connection with the agreement to be so referred; and where any dispute is referred to the Minister under or by virtue of this subsection, then, subject to subsection (7) of this section, the Minister may give such directions to the Executive and the Board with respect to the dispute as he thinks fit.
- (7) Before giving any directions under subsection (6) of this section to the Executive for a designated area in Scotland or Wales the Minister shall consult with the Secretary of State.
- (8) The Minister may, with the approval of the Treasury and if in any particular case he considers it proper so to do, make grants to the Executive for any designated area to which this section applies towards any expenditure incurred by the Executive by reason of any agreement entered into under subsection (2)(b) of this section; but—
 - (a) such grants shall be made only in respect of a period falling within the first seven years (or such greater number of years as the Minister may with the approval of the Treasury by order prescribe) from the date fixed for the establishment of that Executive by order under section 9(1) of this Act or the

date of the order under subsection (1) of this section applying this section to that designated area, whichever is the later; and

- (b) in the case of any of those years after the first, the percentage of the aggregate amount of any expenditure incurred as aforesaid in that year represented by any grant in respect of that year shall be less than it was or would have been in the case of the last preceding of those years.

21 Provisions as to functions of traffic commissioners in connection with designated areas

- (1) The persons whose representations traffic commissioners are required by section 135(2) of the Act of 1960 to take into consideration in exercising their discretion to grant or back or to refuse a road service licence in respect of any route and their discretion to attach conditions thereto shall include—

- (a) if that route or any part thereof is situated in a designated area, the Executive for that area; and
- (b) if the Railways Board are providing railway passenger transport facilities along or near to that route or any part thereof in pursuance of an agreement with the Executive for any designated area, that Executive,

and, if the licence is granted or backed, subsections (2) and (3) of section 143 of that Act (which confer rights of appeal to the Minister on certain authorities and persons who have made representations or objections to the traffic commissioners in connection with the licence) shall apply to such an Executive as aforesaid as they apply to the authorities and persons mentioned in paragraphs (a) and (b) of the said subsection (2) or (3).

- (2) If, in the case of any road passenger transport service provided within a designated area to which section 19 of this Act applies, any dispute arises between any of the following persons, namely, the Executive for that area, the person providing that service, and any other person providing road passenger transport services within or to and from that area, as to whether that service is or is not an excursion or tour, that dispute shall, if any party thereto so requests, be referred for determination to the chairman of any appropriate traffic commissioners, whose decision shall be final.
- (3) In any proceedings with respect to such a service as is mentioned in subsection (2) of this section, a certificate of the chairman of any appropriate traffic commissioners that the service is an excursion or tour for which a road service licence is required shall be conclusive evidence of that fact, and any document purporting to be such a certificate shall be accepted in evidence without further proof.
- (4) Any agreement made for the purposes of section 19(2) of this Act may contain provision for referring any difference arising between the parties thereto for determination by the chairman of any appropriate traffic commissioners.
- (5) The Minister may by regulations make provision with respect to the procedure to be followed in connection with any functions conferred on traffic commissioners or their chairman by this section or Schedule 6 to this Act and for prescribing anything required by that Schedule to be prescribed; and the regulations may include—
 - (a) provision requiring the Executive for a designated area to furnish the appropriate traffic commissioners with information as to the road passenger transport services provided—
 - (i) by the Executive or any subsidiary of theirs;

or

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- (ii) in pursuance of agreements with the Executive ; or
 - (iii) with the consent of the Executive granted under Schedule 6 to this Act;
 - (b) provision authorising the charging of fees in connection with the functions aforesaid of any traffic commissioners or their chairman and as to the person by whom any such fee is to be paid;
- and any amount received by any traffic commissioners or their chairman by way of fees under the regulations shall be paid into the Consolidated Fund in such manner as the Treasury may direct.
- (6) In this section, the expression "appropriate traffic commissioners " means traffic commissioners for an area which includes the designated area or part of a designated area in which the road passenger transport service in question is provided, and references to the chairman of any traffic commissioners include references to any person for the time being appointed to act as his deputy.

General

22 Provisions as to regulations and orders under Part II

- (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 made under this Part of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) A person who desires to question any order under section 9(1) or 17(1) of this Act on the ground that there was no power to make the order or that a requirement of this Act was not complied with in relation to the order may within six weeks from the date on which the order is made make an application for the purpose to the High Court or, in Scotland, to the Court of Session.
- (4) On an application under subsection (3) of this section with respect to any order, the court—
 - (a) may by interim order suspend the operation of the order or of any provision thereof, either generally or so far as may be necessary for the protection of the interests of the applicant, until the final determination of the proceedings; and
 - (b) if satisfied that there was no power to make the order or that the interests of the applicant have been substantially prejudiced by a failure to comply with a requirement of this Act, may quash the order, or any provision thereof, either generally or so far as may be necessary as aforesaid.
- (5) Except as provided by this section, an order under the said section 9(1) or 17(1) shall not, either before or after it is made, be questioned in any legal proceedings whatever; but nothing in this subsection shall preclude a person from questioning whether the provisions of paragraph (b) of section 17(2) of this Act are satisfied in the case of any such acquisition of property, making or variation of a contract, or disposal, as is referred to in that paragraph.
- (6) In relation to proceedings in Scotland, subsection (4)(a) of this section shall have effect as if the words " by interim order " were omitted.

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 designated 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 gives directions under this Part of this Act to give effect to those directions.
- (3) Any direction given by the Minister under this Part of this Act shall be in writing.