



# Transport Act 1978

## 1978 CHAPTER 55

An Act to provide for the planning and development of public passenger transport services in the counties of England and Wales; to make further provision about public service vehicle licensing, the regulation of goods vehicles and parking and about inland waterway transport; to make amendments about British Rail and railways, and about Freightliners Limited and the finances of the National Freight Corporation and other transport bodies in the public sector; and for purposes connected with those matters. [2nd August 1978]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *County transport planning (England and Wales)*

#### **1 Passenger transport policies in county areas**

- (1) In each non-metropolitan county of England and Wales, it shall be the duty—
- (a) of the county council, acting in consultation with public passenger transport service operators and district councils within the county—
    - (i) to develop policies which will promote the provision of a co-ordinated and efficient system of public passenger transport to meet the county's needs, and
    - (ii) for that purpose to take such steps as the council think appropriate for promoting the coordination, amalgamation and re-organisation of road passenger transport undertakings in the county ;
  - (b) of each of the district councils in the county who provide any public passenger transport service to operate the service in accordance with policies developed by the county council as mentioned in paragraph (a) above; and
  - (c) of public passenger transport service operators, and the county and district councils—

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- (i) to co-operate with one another in the exercise and performance of their respective functions for the purpose of co-ordinating public passenger transport services within the county, and
  - (ii) to afford to one another such information as may be reasonably required for that purpose.
- (2) In this section and sections 2 and 4 below, " public passenger transport services " means all those services (whether publicly or privately operated) on which members of the public rely for getting from place to place, when not relying on private facilities of their own, including school transport but not—
  - (a) services provided in accordance with permits under the Minibus Act 1977 (carriage of passengers by bodies concerned with education, social welfare etc.); or
  - (b) excursions or tours within the meaning of the 1968 Act.
- (3) For the purpose of such co-operation as is referred to in subsection (1)(c) above, all those mentioned in that subsection shall have power to enter into such arrangements with one another with respect to the exercise and performance of their respective functions on such terms as may appear to them to be expedient.
- (4) Those who provide public passenger transport services may under subsection (3) enter into arrangements between themselves for the establishment under the Companies Acts of companies controlled (jointly or severally) by the parties to the arrangements and for—
  - (a) the transfer of assets to such companies ; and
  - (b) facilitating the voluntary transfer of employees.
- (5) The council of a non-metropolitan county or non-metropolitan district may make grants towards any costs incurred by persons carrying on public passenger transport undertakings wholly or partly in the county or district, as the case may be, and may also make grants—
  - (a) to persons providing community bus services; and
  - (b) in cases where local authorities and traffic commissioners have consented, under paragraph 5 of Schedule 12 to the 1960 Act, to the advertisement of facilities as being provided under a social car scheme, to persons arranging those facilities.
- (6) Where, in carrying out their duty under subsection (1)(b) above, a district council incur expenditure which they would not otherwise have incurred or receive less revenue than they would otherwise have done, the district council may, by notice to the county council, require the county council to reimburse the amount of that expenditure or of that reduction in revenue.
- (7) If any amount which, in accordance with the notice under subsection (6) above, a county council are required to reimburse to a district council is not determined by agreement between those councils within 6 months of the receipt of the notice or such longer period as may be agreed between them, the amount shall be determined by an arbitrator appointed either by agreement between those councils or, in default of such agreement, by the President of the Chartered Institute of Public Finance and Accountancy.

## 2 County public transport plans

- (1) Every non-metropolitan county council shall—
  - (a) not later than 31st March 1979, prepare and publish a public passenger transport plan for the succeeding period of 5 years ; and
  - (b) revise and re-publish the plan every 12 months (which means not later than 31st March in each year after 1979), relating its contents always to the next 5 years after re-publication.
- (2) The plan shall contain—
  - (a) a review of the county's needs, and the needs of communities comprised in it, in respect of public passenger transport services, and the extent to which those needs are met by existing services (this review to be accompanied by an account of the criteria applied to determine need);
  - (b) a description of—
    - (i) the council's policies and objectives for public passenger transport, and the services and facilities they consider to be needed by the county; and
    - (ii) the measures proposed for securing them in the short, and also in the longer, term ;
  - (c) estimates of the financial resources required for the realisation of those policies and objectives, with proposals for obtaining such resources ; and
  - (d) an account of how far forecasts in earlier plans have been, and are being, realised as regards the availability and use of such resources.
- (3) When preparing or revising the plan, and when considering from time to time the way in which they are to discharge their responsibilities under section 1 above, the council shall enter into consultations with—
  - (a) public passenger transport service operators in the county, or their representatives;
  - (b) district councils in the county ; and
  - (c) the following, if they or their areas may be affected by the policies described in the plan—
    - (i) other county councils,
    - (ii) the Greater London Council, and
    - (iii) joint planning boards set up under section 1 of the Town and Country Planning Act 1971.
- (4) To all those mentioned in paragraphs (a) to (c) of subsection (3), and also to—
  - (a) the county's parish and (in Wales) community councils ; and
  - (b) trade unions, transport user organisations and others appearing to the county council to be especially concerned with public passenger transport matters,there shall be afforded an opportunity of commenting on a preliminary draft of the plan, and of making representations with respect to its contents.
- (5) Particulars shall be given in the plan of the county council's consultations entered into in compliance with subsection (3) and of the consideration which has been given to views expressed in the consultations.
- (6) When the plan or revised plan has been published, the county council shall cause it to be made available for inspection (at all reasonable hours)—
  - (a) at the council offices; and

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- (b) at the offices of each of the district councils in the county; and
  - (c) at such other places as are considered suitable, having regard to the convenience of members of the public.
- (7) The council shall give notice, by such means as they think expedient for bringing it to the attention of the public, about where the plans can be inspected, and as to the way in which copies of the plan (and if practicable, parts of it) can be purchased or otherwise obtained.

### **3 Agreements with operators**

- (1) A non-metropolitan county council shall from time to time, with a view to implementation of their public passenger transport plan, enter into agreements with persons carrying on public passenger transport undertakings wholly or partly in the county for the provision or retention and financing of services and facilities which are required by the plan but would not, apart from such agreements, be available.
- (2) The council may enter into similar agreements with persons within section 1(5) (a) and (6) above.
- (3) Agreements under subsection (1) above shall be made so as to remain in force for a period of 3 years, except in cases where, having regard to the nature of the services and facilities to be provided, a longer or shorter period is determined by the parties to be expedient.
- (4) Whenever the public passenger transport plan is published or re-published, it shall include particulars of such agreements made by the council as are referred to in subsections (1) and (2) above and are then in force or to be in force during the period of 12 months immediately following.
- (5) When preparing or revising their plan and deciding whether any, and if so what, agreements should be made under this section, the council may require any of the persons referred to in section 1(5) above to furnish such information concerning their services (including the cost of providing them) as is reasonably required by the council for those purposes; and—
- (a) the information shall be formulated in such a manner as may be specified in the council's requirement; and
  - (b) the council shall, when framing the requirement, have regard to any directions given by the Secretary of State to county councils about the form and content of the information which ought to be obtained by them from persons qualifying for grant under section 1(5).
- (6) Any requirement under subsection (5) above shall be complied with by the persons to whom it is addressed, subject to the council giving, and complying with, such written undertakings of confidentiality as may be requested by those persons as a condition of the information being furnished; but nothing in subsection (4) or (5) above requires or authorises the council to include anything in their plan whose disclosure may adversely affect the business interests or commercial security of any person.

### **4 Concessionary fare schemes**

- (1) All those county councils who have under this Act to prepare and publish an annual public passenger transport plan shall include in the plan, whenever it is published or re-published, the following matters relating to travel concession schemes (meaning

schemes for the reduction or waiver of fares or charges on public passenger transport services in favour of special categories of persons).

- (2) The matters to be included in the plan are—
- (a) an account of what (if any) travel concession schemes are operative in the county or planned for early introduction, being schemes which are wholly or partly financed, or the subject of financial contribution, by the council themselves or by any of the district councils in the county;
  - (b) the nature and extent of the concessions available under those schemes;
  - (c) proposals for introducing new travel concession schemes such as are mentioned in paragraph (a) above, or for extending or improving existing schemes; and
  - (d) the reasons why (if it be the case) in any part of the county either no such schemes are operative or existing schemes are inadequate.

#### *Public service vehicle licensing*

### **5 Community bus services**

- (1) Subject to the provisions of this section, the traffic commissioners for any traffic area may grant—
- (a) a road service licence under Part III of the 1960 Act, authorising the use of a vehicle as a stage carriage or an express carriage; or
  - (b) a permit under section 30 of the 1968 Act, authorising the use of a vehicle as a stage carriage,
- in either case so as to provide a community bus service (to be specified in the licence or permit) using volunteer drivers.
- (2) The vehicles to be so used by virtue of this section are those, and those only, adapted to carry at least 8 and at most 16 passengers.
- (3) A community bus service may extend to the provision of excursions and tours as defined by section 159 of the 1968 Act.
- (4) The commissioners shall not by virtue of this section grant a licence or permit unless they are satisfied that the applicants for it—
- (a) are a body of persons (whether corporate or un-incorporate) who in making the application are concerned for the social and welfare needs of one or more communities; and
  - (b) propose to provide the bus service without profit either to themselves or to anyone else;
- and this, in the case of an application for a permit under section 30, is in addition to the requirement in subsection (2) of that section that the traffic commissioners must, before granting the permit, be satisfied that there are no other transport facilities available to meet the reasonable needs of the proposed route.
- (5) In the case of a vehicle used in providing a community bus service, there shall be no requirement under section 127 of the 1960 Act for any person to be the holder of a public service vehicle licence authorising that use; and at any time when a vehicle is so used, the person driving it need not be the holder of a public service vehicle driver's licence under section 144 of that Act.

- (6) But at any such time—
- (a) the driver must be a volunteer and, if not the holder of a public service vehicle driver's licence, must fulfil such conditions as may be prescribed for drivers of community buses;
  - (b) the vehicle must (unless there is a public service vehicle licence in force in respect of it) fulfil such conditions as may be prescribed with respect to fitness for use as a community bus ; and
  - (c) there must be displayed on the vehicle such disc or other document issued by the traffic commissioners as may be prescribed for a vehicle used as a community bus;
- and compliance with paragraphs (a) to (c) of this subsection is a condition of the use of the vehicle being treated as authorised by the road service licence or section 30 permit.
- (7) For the purposes of subsection (6)(a) above, " volunteer " means that the driver is not paid for driving the vehicle on the particular journey, disregarding—
- (a) any payment of reasonable expenses incurred by him in making himself available to drive ; and
  - (b) any payment representing earnings lost as a result of making himself available to drive in exceptional circumstances.
- (8) The traffic commissioners may by virtue of this section grant a licence or permit for a community bus service to be provided wholly or partly in Greater London and the service shall not be regarded as a London bus service within section 23 of the Transport (London) Act 1969 (which provides exclusivity for the London Transport Executive); but the commissioners—
- (a) before granting or renewing such a licence or permit, shall satisfy themselves that the application for the grant or renewal is approved by that Executive; and
  - (b) before varying the conditions attached to such a licence or permit, shall consult the Executive about the proposed variation.
- (9) This section and Part III of the 1960 Act shall be construed and have effect as if this section were contained in that Part of that Act.
- (10) In section 44 of the 1972 Act (requirement of M.O.T. test certificate), at the end of subsection (4) (exclusion of public service vehicles) there shall be inserted—
- “but shall apply (except in prescribed cases) to a vehicle which is used in providing a community bus service under section 5 of the Transport Act 1978, if no public service vehicle licence is in force in respect of the vehicle.”.

## **6 Use of community bus for contract work**

- (1) A road service licence or section 30 permit authorising the provision of a community bus service may be granted so as to authorise the use of the community bus as a contract carriage, subject to such restrictions (if any) as the traffic commissioners think fit to impose.
- (2) " The community bus " means any vehicle (being adapted to carry at least 8 and at most 16 passengers) which, whether or not belonging to the holders of the applicable road service licence or permit, is used on a regular basis for the purposes of the service.

- (3) The licence or permit shall not be granted with an authorisation under subsection (1) unless the commissioners are satisfied that it is reasonable in all the circumstances with a view to financial support of the service.
- (4) Section 5(5) and (6) of this Act apply to any use of the community bus as a contract carriage in the same way as they apply to any other use of it.
- (5) This section and Part III of the 1960 Act shall be construed and have effect as if this section were contained in that Part of that Act.

## **7 Car-sharing for social and other purposes**

- (1) For Part II of Schedule 12 to the 1960 Act (which regulates the use of smaller vehicles carrying passengers at separate fares) there shall be substituted the Part II set out in Schedule 1 to this Act (which consists of new or altered provisions as to the number of passengers carried, notices and advertisement, arrangements by local authorities for social purposes, etc.).
- (2) In Part V of Schedule 12, at the end of paragraph 13 (advertisements to be disregarded for certain purposes of the Schedule), there shall be added “or
  - (c) a notice displayed or announcement made in or at any place of work with regard to journeys to be made to or from that place by people who work there, or
  - (d) a notice displayed or announcement made by a club or other voluntary association which—
    - (i) relates only to journeys arranged incidentally in connection with activities of the club or association (but they must not be activities directed to the provision of road transport facilities, whether for members of the club or association, or for others), and
    - (ii) is displayed or made in premises occupied or used by the club or association or contained in any periodical issued by it”.
- (3) At any time when a vehicle would, apart from—
  - (a) section 118 of the 1960 Act (exemption from licensing system of vehicles adapted to carry no more than 7 passengers); or
  - (b) section 1(1) of the Minibus Act 1977 (corresponding exemption for 8 to 16-seaters used by educational and other bodies),

be a public service vehicle, it shall continue to be treated as such for the purpose only of provisions contained in a local Act, in section 270 or 271 of and Schedule 5 to the Burgh Police (Scotland) Act 1892 or in Part II of the Local Government (Miscellaneous Provisions) Act 1976, which regulate the use of private hire vehicles provided for hire with the services of a driver for the purpose of carrying passengers and exclude public service vehicles from the scope of that regulation.

## **8 Road service licences and permits**

- (1) The provisions of Part III of the 1960 Act and of the 1968 Act specified in Schedule 2 to this Act (being provisions about grant, refusal and variation of road service licences and permits in lieu of road service licences; duration of licences; attachment of conditions to licences and permits; procedure of traffic commissioners and related matters) shall be amended as shown in that Schedule.

- (2) But the amendments of section 135 of the 1960 Act (criteria for grant etc. of road service licences and attachment of conditions) do not operate in relation to—
- (a) an application to traffic commissioners for, or for the backing of, a road service licence, or for the variation of the conditions attached to such a licence, if the application is made before those amendments come into force; or
  - (b) a proposal by traffic commissioners to vary the conditions attached to a road service licence (otherwise than on an application falling within paragraph (a) above) if notice of the proposal is given before those amendments come into force; or
  - (c) any appeal arising out of an application or proposal in relation to which, by virtue of paragraph (a) or paragraph (b) above, those amendments do not operate.

### *Road traffic regulation*

## **9 Lorries**

- (1) Sections 56 to 58, 82, 83 and 160 of, and Schedule 4 to, the 1972 Act and sections 1, 2 and 7 of the Road Traffic (Foreign Vehicles) Act 1972 shall be amended as shown in Schedule 3 to this Act (the amendments being to extend powers of inspection and control of vehicles by means of spot checks for mechanical defect or overload and restrictions on further use of a vehicle found in breach of the relevant Acts and regulations).
- (2) In section 45 of the 1972 Act (regulations for checking condition of goods vehicles, determining plated weights, etc.), in subsection (6) (scope of regulation-making power), the following shall be added at the end of paragraph (a)—

“and

- (iii) require any such vehicle to be submitted for examination or re-examination for any purpose of plating or certification”.

## **10 Drivers' hours (EEC Rules)**

In section 96 of the 1968 Act (restrictions on drivers' hours), after subsection (11 A) (added by the European Communities Act 1972, with a view to penalising contraventions of the applicable Community rules), there shall be inserted—

“(11B) But a person shall not be liable to be convicted under subsection (11A) if—

- (a) he proves the matters specified in paragraph (i) of subsection (11); or
- (b) being charged as the offender's employer or a person to whose orders the offender was subject, he proves the matters specified in paragraph (ii) of that subsection”.

## **11 Control of off-street parking**

- (1) With a view to providing further means of regulating traffic in urban areas, Her Majesty may by Order in Council, provide for enabling the operation of public off-street parking places to be regulated—
- (a) in English and Welsh counties, by the county council; and



- (b) in Scottish regions and islands areas, by the regional or islands council.
- (2) An Order in Council under this section may make any such provision for the remainder of England and Wales, or for Scotland as the case may be, as is made for Greater London by section 36 of, and Schedule 5 to, the Transport (London) Act 1969 and shall be so framed as to conform with the 1969 provisions as respects all matters there dealt with, subject only to the modifications permitted or required by the following subsection and other minor and incidental modifications.
- (3) The modifications referred to above are that the Order—
- (a) shall provide for controlled areas to be so designated that they comprise only premises to which there is no road access otherwise than (directly or indirectly) from one or more urban roads ;
  - (b) may in relation to Scotland substitute the regional or islands council for local authorities (which in the 1969 provisions are London borough councils and in the corresponding provisions to be made under this section for England and Wales are district councils);
  - (c) may take account of the repeal, amendment or replacement since 1969 of enactments then in force and also take account of Scottish legislation corresponding to legislation for England and Wales ; and
  - (d) may include, in place of references and requirements which are apposite only for London, corresponding references and requirements apposite for other areas of Great Britain.
- (4) Any such Order shall also require councils—
- (a) to consult organisations representative of the disabled before deciding to propose the designation of a controlled area under the Order; and
  - (b) if representations are received from such organisations about the proposal, to send to the Secretary of State (together with copies of representations received from other organisations consulted) a statement of how parking requirements of the disabled arising from implementation of the proposal are met by existing facilities or, if in the opinion of the council they are not already so met, how it is intended to meet them.
- (5) In this section—
- (a) " public off-street parking place " means a place, whether above or below the ground and whether or not consisting of or including buildings, where parking space for motor vehicles off the highway is made available to the public for payment;
  - (b) the reference to the operation of such a parking place is to making such parking space at a parking place so available;
  - (c) " urban road " means a road which—
    - (i) is a restricted road for the purposes of section 71 of the Road Traffic Regulation Act 1967 (30 m.p.h. speed limit), or
    - (ii) is subject to an order under section 74 of that Act imposing a speed limit of not more than 40 m.p.h.; and
  - (d) " the 1969 provisions " means section 36 of, and Schedule 5 to, the Transport (London) Act 1969.
- (6) An Order in Council made under this section may be varied or revoked by a subsequent Order so made, and shall be subject to annulment by resolution of either House of Parliament.

**12 Bicycles**

The powers of any authority under the Road Traffic Regulation Act 1967 to provide parking places shall extend to providing, in roads and elsewhere, stands and racks for bicycles.

*Waterway transport and railways***13 National policy for inland waterway transport**

It shall be the duty of the Secretary of State to promote a national policy for the use of inland waterways for commercial transport.

**14 British Rail public service obligations**

- (1) In section 3(4) of the Railways Act 1974 (financial limit governing Secretary of State's power to impose public service obligations on British Rail), after the words " shall not" there shall be inserted " for periods up to the end of 1978 ".
- (2) The Secretary of State's power of giving directions under section 3(1) of the Act shall be so exercised that the aggregate amount of any compensation payable under the relevant transport regulations of the European Communities in respect of all obligations imposed by directions for the time being in force under that subsection shall not, for periods after the end of 1978, exceed £1,750 million or such greater sum not exceeding £3,000 million as may be specified by Order in Council.
- (3) Her Majesty shall not be recommended to make such an Order unless a draft of it has been approved by resolution of the House of Commons.
- (4) " The relevant transport regulations " means the same as in the Railways Act 1974.

**15 Transfer of controlling interest in Freightliners Limited**

- (1) On the appointed day there shall be transferred to, and vested in, the British Railways Board all those securities (within the meaning of the 1968 Act) of Freightliners Limited which immediately before that day are vested in the National Freight Corporation.
- (2) On that day—
  - (a) any liabilities of N.F.C. under guarantees given by them in respect of obligations of Freightliners Limited shall be transferred to, and become liabilities of, that Board ; and
  - (b) the rights and liabilities of N.F.C. under contracts of employment with persons employed by them wholly or mainly in connection with the undertaking of Freightliners Limited shall be transferred to, and become rights and liabilities of, the Board.
- (3) The following provisions of the 1968 Act—
  - (a) section 135(1) (regulations as to compensation of employees); and
  - (b) Schedule 4 (supplementary provisions about transfers of property etc.),
 and also any regulations made under section 135(1) of the 1968 Act before the coming into force of this section, apply as if the transfers effected by subsections (1) and (2) above were transfers under section 8(4) of that Act (the appointed day counting as

the " first material date " for the purposes of the British Transport (Compensation to Employees) Regulations 1970, instead of the date shown in the second column of Schedule 1 to the Regulations).

- (4) Section 136(2) and (4) of the 1968 Act (transfers in connection with pension schemes and preservation of pension rights) apply in the same way ; and for the purposes of section 136(4)(c), Freightliners Limited is to be treated (despite section 51(5) of that Act, which made it a joint subsidiary both of the British Railways Board and N.F.C.) as having become a subsidiary of the British Railways Board only on the appointed day.
- (5) The 1968 Act shall be amended as follows—
- (a) in section 7(4)(b) (restriction on alteration of proportion of interests in Freightliners Limited by means of a scheme), for the words from the beginning to " entitled in" substitute " for transferring any interest in securities of ";
  - (b) in section 42(3) (power of Secretary of State to vary amount of commencing capital debt of British Railways Board), for the words " specified in subsection (2)(b) of this section" onwards substitute " of the commencing capital debt of the Board as determined by or under any enactment for the time being in force, where that appears to him expedient to take account of any transfer of property, rights or liabilities under section 7(5) or (6) or 8(4) of this Act " ; and
  - (c) in paragraph 3 of Schedule 2 (power of Secretary of State to vary commencing capital debt of N.F.C. etc.), for the words from " where that appears " to " of this Act; or" substitute " or, 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 expedient to take account " .
- (6) It shall be within the powers of the British Railways Board—
- (a) where it appears to them expedient with a view only to achieving the more productive use of road vehicles predominantly used for the carriage of containers which have been or are to be carried by rail, to use such vehicles for any carriage of containers; and
  - (b) where they have entered into a contract for the carriage of containers or goods in containers (with or without provisions in the contract specifying whether the carriage is to be by road or by rail), and the contract is to be performed predominantly by rail carriage, to use any road vehicles in partial discharge of their obligations under the contract;
- and " containers" means high capacity containers of a kind capable of being carried by freightliner rail vehicles.
- (7) The annual report made by the Board under section 4 of the Railways Act 1974 shall include, in addition to the matters there mentioned, such information about the Board's exercise of their powers under subsection (6) above as may be called for by the Secretary of State.
- (8) In this section "the appointed day" means the day appointed under section 24(1) below for the coming into force of this section.

## **16 Amendment of Railways Act 1974 s. 8**

Section 8 of the Railways Act 1974 (grants to assist provision of facilities for freight haulage by rail) shall be amended as follows—

- (a) in subsection (1), after "for or in connection with" insert " the carriage of freight by rail or " ;
- (b) in subsection (2), after " include " insert " rolling stock ", and before " loading or unloading " insert " carriage " .

*National Freight Corporation (finance)*

**17 Reduction of capital debt**

- (1) On the day appointed under section 24(1) below for the coming into force of this section, there shall be extinguished so much of the liability of the National Freight Corporation on that day in respect of—
  - (a) the commencing capital debt of the Corporation under section 3(2) of, and Schedule 2 to, the 1968 Act; and
  - (b) the principal of money borrowed by the Corporation from the Secretary of State under section 19 of the 1962 Act as applied by section 3(1)(b) of the 1968 Act,
 as is necessary to reduce that liability to £100 million.
- (2) Of the amount in respect of which the Corporation's liability is extinguished by subsection (1) above, such part as the Secretary of State may, with the approval of the Treasury, direct shall be treated as reducing the commencing capital debt of the Corporation and the remainder shall be treated as reducing the principal of money borrowed as mentioned above.
- (3) The assets of the National Loans Fund shall accordingly be reduced by the amount in respect of which the Corporation's liability is so extinguished.

**18 Capital grants**

- (1) The Secretary of State may, with the approval of the Treasury, out of money provided by Parliament make grants to the National Freight Corporation in respect of any expenditure of a capital nature incurred or to be incurred during the period 1st July 1978 to 31st December 1981 by National Carriers Limited or any of its subsidiaries.
- (2) Any grants under this section shall be made on such terms and conditions as the Secretary of State may with the approval of the Treasury determine; and the amounts of the grants shall be determined so that—
  - (a) the amount for the year 1980 is less than that for the year 1979, and the amount for the year 1981 is less than that for the year 1980; and
  - (b) the aggregate amount of the grants does not exceed £15 million.

**19 Funding of pension obligations**

- (1) The National Freight Corporation shall, subject to the following provisions of this section, provide the money for funding such of the obligations mentioned in subsection (2) below as may be prescribed, in so far as those obligations have not been funded before the appointed day.
- (2) The obligations mentioned in subsection (1) are obligations of N.F.C., N.C.L. and Freightliners Limited which are owed, in connection with any prescribed relevant

pension scheme in force on the appointed day, to or in respect of persons who are or have been employed by any of those bodies.

- (3) But the obligations which may be prescribed under subsection (1) above shall not include—
- (a) any obligation imposed on N.F.C., N.C.L. or Freight liners Limited and resulting from an amendment of a pension scheme made after 1st April 1975, other than an amendment made by virtue of section 74 of the 1962 Act; or
  - (b) any obligation of N.F.C., N.C.L. or Freightliners Limited arising after that date to pay increases of pensions in excess of those payable, in the case of official pensions, under the Pensions (Increase) Act 1971 and section 59 of the Social Security Pensions Act 1975.
- (4) The Secretary of State may by order made with the consent of the Treasury prescribe—
- (a) the aggregate amount to be provided by the Corporation for funding the prescribed obligations in any prescribed period; and
  - (b) the manner in which the prescribed aggregate amount is to be apportioned between pension schemes.
- (5) The amounts so apportioned shall be debts of N.F.C. to the persons administering the pension scheme in question; and the Secretary of State may by order made with the consent of the Treasury prescribe—
- (a) the instalments by which and the dates on which the debts are to be paid off ; and
  - (b) the rate at which and dates on which interest on the debts is to be paid.
- (6) An order made under subsection (5)(a) above may make different provision for different debts; but no order shall be made under that paragraph unless a draft of the order has been laid before, and approved by, the House of Commons.
- (7) The Secretary of State shall reimburse the Corporation in respect of any sums paid under this section in respect of the principal of or interest on the debts due by virtue of this section, and any sums required by him for that purpose shall be paid out of money provided by Parliament.

## **20 Provisions supplementary to s. 19**

- (1) In section 19 above and this section—
- " the appointed day " means a day appointed for the purposes of that section and this section by an order made by the Secretary of State ;etary of State with the consent of the Treasury;
  - " prescribed " means prescribed by an order made by the Secretary of State with the consent of the Treasury;
  - " pension " and " pension scheme " mean the same as in the 1962 Act and " relevant pension scheme " means—
- (a) a pension scheme in relation to which rights, liabilities and functions were conferred or imposed on N.F.C., N.C.L., or Freightliners Limited by an instrument made under or by virtue of any provision of the 1962 Act; or
  - (b) a pension scheme established by N.F.C, N.C.L., or Freightliners Limited for the provision of pensions for or in respect of persons who are or have at any time been employed by any of those bodies;

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and a reference to N.C.L. or to Freightliners Limited shall be read as including a reference to its subsidiaries.

- (2) Where at any time, whether before or after the appointed day, N.F.C., N.C.L., or Freightliners Limited make payments in respect of pensions payable under a prescribed pension scheme or increases in such pensions, the body making the payments shall be treated for the purposes of section 19 as being under an obligation at that time to make those payments.
- (3) The funding of an obligation under section 19 shall not discharge the obligation so far as it is one to pay pensions or increases of pensions under the relevant pension scheme owed to the person to whom pensions or increases of pensions are or may become payable under the scheme or is an obligation to secure the payment of those pensions or increases.
- (4) If the persons administering a prescribed pension scheme have no power to amend the scheme apart from this subsection, they may amend it by instrument in writing for the purpose of bringing it into conformity with any provision of section 19 or this section, or any order under either section; and the power of amending any such scheme apart from this subsection may for that purpose be exercised without regard to any limitations on the exercise of the power and without compliance with any procedural provisions applicable to its exercise.
- (5) Where it appears to N.F.C. that there is a doubt as to who are the persons administering a pension scheme, N.F.C. may by instrument in writing specify the persons who are to be treated for the purposes of section 19 and this section as the persons administering it.
- (6) Where any obligation of N.F.C., N.C.L. or Freightliners Limited is funded under section 19, or any obligation of the British Railways Board is funded under section 5 of the Railways Act 1974—
  - (a) any right of N.F.C., N.C.L. or Freightliners Limited to be indemnified by B.R. in respect of the funded obligation or part of it; or
  - (b) any right of B.R. to be so indemnified by N.F.C., N.C.L. or Freightliners Limited,shall be extinguished in proportion to the funding of the obligation.
- (7) For the purposes of section 19(3) above and section 5(2) of the Railways Act 1974 (equivalent provision as to British Rail pension schemes), a scheme shall not be taken to be amended by virtue only of the transfer effected by section 15(1) above or by any provision made by virtue of section 15(3) in consequence of the transfer.
- (8) Any power to make an order conferred by section 19 or this section shall be exercisable by statutory instrument; and any such instrument (other than one containing an order made by virtue of section 19(5)(a) or one appointing a day for the purposes of section 19 and this section) shall be subject to annulment by a resolution of the House of Commons.
- (9) An order under section 19 or this section may be varied or revoked by a subsequent order so made, but no order shall be made under section 19(4) after the end of 1979, except a varying or revoking order under that subsection.

## **21 Travel concessions for transferred employees**

The Secretary of State may, with Treasury approval, out of money provided by Parliament reimburse the National Freight Corporation to such extent as he considers appropriate, and on such terms as he may with that approval determine, in respect of amounts paid by N.F.C., N.C.L. or any subsidiary of N.C.L. to the British Railways Board and the London Transport Executive in connection with travel concessions afforded by them to employees transferred from the employment of the Board under the 1968 Act, or to widows or dependants of such employees.

### *General*

## **22 Transport supplementary grant**

Section 6(1) of the Local Government Act 1974 (transport supplementary grants to county councils and the G.L.C.) shall be amended as follows—

- (a) omit " and " at the end of paragraph (c);
- (b) at the end of paragraph (d) add—

“and

- (e) compensation payable under Part IV of Schedule 5 to the Transport (London) Act 1969 (control of off-street parking in Greater London) or any corresponding provisions in an Order in Council under section 11 of the Transport Act 1978 (provision to the same effect for the remainder of Great Britain”); and
- (c) for "(a) to (d)" substitute " (a) to (e) ".

## **23 Finance (general)**

There are hereby authorised—

- (a) all such charges or increased charges on public funds as may result from sections 1(5), 3(1), 15 and 17 of this Act;
- (b) increased payments out of money provided by Parliament attributable to sections 16 and 22 of this Act;
- (c) such other increased payments out of money so provided as may result from provisions of this Act which increase the administrative expenses of local authorities and government departments ; and
- (d) any increase attributable to this Act in the sums payable into the Consolidated Fund under any other enactment.

## **24 Commencement; interpretation; repeals**

(1) This Act shall come into force on a day appointed by the Secretary of State by order in a statutory instrument; and different days may be so appointed for different provisions and different purposes.

(2) In this Act—

- " the 1960 Act " means the Road Traffic Act 1960 ;
- " the 1962 Act " means the Transport Act 1962;
- " the 1968 Act " means the Transport Act 1968 ;

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" the 1972 Act " means the Road Traffic Act 1972;  
" B.R. " means the British Railways Board ;  
" N.C.L. " means National Carriers Limited ;  
" N.F.C. " means the National Freight Corporation ; and  
" subsidiary " means the same as in the 1962 Act.

- (3) A 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.
- (4) The enactments specified in Schedule 4 to this Act are repealed to the extent specified in the third column of the Schedule.

## **25 Citation and extent**

- (1) This Act may be cited as the Transport Act 1978.
- (2) Sections 1 to 4 and 22 of this Act do not extend to Scotland.
- (3) This Act, except sections 15, 17 to 21 and 23 to 25, does not extend to Northern Ireland.



## SCHEDULES

### SCHEDULE 1

Section 7(1).

#### RE-STATEMENT OF ROAD TRAFFIC ACT 1960, SCHEDULE 12, PART II

#### “PART II

##### CONDITIONS RELATING TO CERTAIN JOURNEYS WITH VEHICLES ADAPTED TO CARRY AT MOST SEVEN PASSENGERS

- 2       The number of passengers carried must not exceed 7; and if any passengers are carried in the course of a business of carrying passengers, the number carried must not exceed 4.
- 3       Where the passengers are carried in the course of a business of carrying passengers, the making of the agreement for the payment of separate fares must not have been initiated by the driver or by the owner of the vehicle, by the person who has let the vehicle for hire by any hiring agreement or hire-purchase agreement, or by any person who receives any remuneration in respect of the arrangements for the journey.
- 4       The journey must be made without previous advertisement to the public of facilities for its being made by passengers to be carried at separate fares.
- 5       (1) The facilities for the journey may have been previously advertised if the conditions of this paragraph are satisfied.  
(2) Those conditions are that—
  - (a) the local authorities and traffic commissioners concerned have consented to the advertisement of the facilities as being provided under a social car scheme, and their consents remain in force ; and
  - (b) the advertisement in each case contains a statement that the consents required by this paragraph have been given.
- (3) Local authorities and traffic commissioners shall not give consent for the purposes of this paragraph where it appears that arrangements for provision of the facilities in question are, or are to be, made for any commercial purpose or with a view to profit; and consent shall be given only if the facilities are to be provided with a view to meeting the social and welfare needs of one or more communities.
- (4) Before a local authority or traffic commissioners withdraw their consent, they shall consult with others by whom it was also given for the facilities in question ; and withdrawal of consent shall be signified by notice in writing to those arranging the facilities.
- (5) In relation to any such journey, the local authorities and traffic commissioners concerned for the purposes of this paragraph are those in whose area any part of the journey is to be made ; and " local authority " means—
  - (a) in Greater London, the Greater London Council;

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- (b) elsewhere in England and Wales, the county council; and
  - (c) in Scotland, the regional or islands council.
- 6 The journey must not be made in conjunction with, or in extension of, a service provided under a road service licence if the vehicle is owned by, or made available under any arrangement (including a hiring agreement or hire-purchase agreement) with, the holder of the licence or any person who receives any remuneration in respect of the service provided under it or in respect of arrangements for that service.”.

## SCHEDULE 2

Section 8(1).

### AMENDMENTS ABOUT ROAD SERVICE LICENCES AND PERMITS

#### *A. ROAD TRAFFIC ACT 1960 (c.16) PART III*

- 1 In section 135 (criteria for grant, variation or refusal of, or attaching of conditions to, road service licences) for subsection (2) substitute—
- “(2) Traffic commissioners shall not grant a road service licence in respect of a route if it appears to them from the particulars furnished on the application for the licence that section 78 of the Road Traffic Regulation Act 1967 (speed limits) is likely to be contravened.
- (2A) In exercising their discretion to grant, refuse or vary a road service licence in respect of any routes and their discretion to attach conditions to any such licence, the traffic commissioners shall have regard to the interests of the public and (subject to subsection (2D) below) in particular to—
- (a) any transport policies or plans which have been made by the local authorities concerned and have been drawn to the commissioners' attention by those authorities ;
  - (b) the transport requirements of the area as a whole (including both the commissioners' own traffic area and, so far as relevant, adjoining traffic areas) and of particular communities in the area;
  - (c) the need to provide and maintain efficient services to meet those requirements ;
  - (d) the suitability of the routes on which a service may be provided under the licence ; and
  - (e) the convenience of persons who are disabled.
- (2B) In subsection (2A) above "the local authorities concerned " means—
- (a) in Greater London, the Greater London Council;
  - (b) elsewhere in England and Wales, county councils ; and
  - (c) in Scotland, regional and islands councils.
- (2C) The commissioners shall further take into consideration any representations made to them by persons who are already providing transport facilities along or near to the routes or any part of them or by a local authority in whose area any part of a route is situated ; and in this subsection " local authority" means—

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- (a) in Greater London, the Greater London Council, the council of a London borough or the Common Council of the City of London ;
  - (b) elsewhere in England and Wales, a county or district council;
  - (c) in Scotland, a regional, islands or district council.
- (2D) Traffic Commissioners are not required, in relation to excursions or tours (within the meaning of the Transport Act 1968) for which each fare includes a charge for overnight accommodation in the course of the journey, to take into account the matters specified in subsection (2A)(a) to (c) above.”.
- 2 In section 135(4) (power to attach conditions to road service licence)—
  - (a) in paragraph (b) after " public interest" insert " having regard to the nature of the service ";
  - (b) after paragraph (d) insert—
    - “(e) in appropriate cases passengers are enabled to continue their journey by another means of transport”.
- 3 After section 139 insert—
  - “**139A**) A road service licence may be granted by the traffic commissioners to be in force for a period of six months or less, the date of expiration to be shown on the face of the licence ; but section 139(2) above applies as it does to any other road service licence.
  - (2) On an application for a licence of longer duration under section 139(1) to replace a short-term licence under this section, the traffic commissioners may take into account any matters arising out of the operation of the road service under the short-term licence.”.
- 4 In section 153(2) (cases in which traffic commissioners need not hold public sittings) after the words " determination of an application for " insert " (a) " , and at the end add—
  - “or
  - (b) the grant of a short-term road service licence under section 139A above.”.
- 5 In section 160(1) (general power to make regulations for purposes of Part III of the Act), after paragraph (c) insert—
  - “(cc) applications for, and issue of, the disc or other document required, under section 5(6) of the Transport Act 1978, in connection with a community bus service”.

#### *B. TRANSPORT ACT 1968 (c.73)*

- 6 In section 30 (permits in lieu of road service licences), in subsection (1)(a) (permits for road services by vehicles adapted to carry not more than 12 passengers), omit the words from " by means of vehicles " to " passengers " .
- 7 In section 21(1) (representations by Executive of designated area) for " section 135(2) " substitute " section 135(2C) " .

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## SCHEDULE 3

Section 9(1).

### AMENDMENTS ABOUT LORRIES

#### *A. ROAD TRAFFIC ACT 1972 (c.20)*

- 1           In section 56(4) (power of examiner to divert vehicles for inspection, but not more than one mile away) for " one mile" substitute " five miles ".
- 2           (1) In section 57 (prohibition of further use on road), after subsection (4) insert—
- “(4A) A prohibition under subsection (1) above may be imposed with a direction making it irremovable unless and until the vehicle has been inspected at an official testing station.”.
- (2) In section 57(7) (suspected overload)—
- (a) omit " and " at the end of paragraph (a), and paragraph (b);
- (b) for " and, if the vehicle is a heavy commercial vehicle, he " substitute—
- “and official notification has been given to whoever is for the time being in charge of the vehicle that it is permitted to proceed.
- The person to whom it so appears”
- (c) for subsection (7A) substitute—
- “(7A) Official notification for the purposes of subsection (7)—
- (a) must be in writing and be given by a goods vehicle examiner, a person authorised as mentioned in that subsection or a constable authorised as so mentioned ; and
- (b) may be withheld until the vehicle has been weighed or re-weighed in order to satisfy the person giving the notification that the weight has been sufficiently reduced.”.
- 3           In section 58 (removal of prohibition imposed under section 57)
- (a) after subsection (2) insert—
- “(2A) If the prohibition has been imposed with a direction under section 57(4A), neither a goods vehicle examiner nor a certifying officer shall remove it unless and until the vehicle has been inspected at an official testing station”;
- (b) after subsection (5) insert—
- “(5A) In the case of vehicles brought to an official testing station for inspection with a view to removal of a prohibition, the Secretary of State may require the payment of fees for inspection, in accordance with prescribed scales and rates ; and
- (a) payment of the fee may be required to be made in advance;
- (b) the Secretary of State shall ensure that the scales and rates prescribed for the purposes of this subsection are reasonably comparable with the fees charged under section 45(6) of this Act in respect of the periodic examination of goods vehicles”;
- (c) in subsection (6), after " subsection (3)", insert " or (5A) ", and for "that subsection" substitute " subsection (3) ".

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4 In section 82 (interpretation for Part II of the Act) after the definition of " Minister's approval certificate " insert—

“" official testing station " means a testing station maintained by the Secretary of State under section 58(5) of this Act.”.

5 In section 83(5) (destination of fees), after " 50" insert " 58(5A) " .

6 (1) In section 160(2) (compensation for diversion of vehicles to be inspected for overload but found within limits), for "one mile " substitute " five miles " .

(2) After section 160(2) of the 1972 Act insert—

“(2A) The Secretary of State may by order designate areas in Great Britain where subsection (2) above is to have effect, in such cases as may be specified by the order, with the substitution for five miles of a greater distance so specified.

An order under this subsection shall be made by statutory instrument subject to annulment by a resolution of either House of Parliament, and may be varied or revoked by another such order.”

7 In Part I of Schedule 4, in column 2 of the entry relating to section 57(9) of the Act, for " dangerous heavy commercial vehicle " substitute " goods vehicle found overloaded " .

#### *B. ROAD TRAFFIC (FOREIGN VEHICLES) ACT 1972 (c.27)*

8 In section 1 (stopping and checking foreign vehicles for mechanical defect, overload, etc.), after subsection (5) insert—

“(6) In the case of a goods vehicle—

(a) a prohibition under subsection (2)(b) above, by reference to a supposed contravention of—

(i) section 40 of the Road Traffic Act 1972 (construction, weight, equipment etc. of motor vehicles and trailers),

(ii) any of sections 68 to 73 and 76 to 79 of that Act (lights, overhanging or projecting load, etc.), or

(iii) regulations under any of the sections of that Act referred to above in this paragraph,

may be imposed with a direction making it irremovable unless and until the vehicle has been inspected at an official testing station ;

(b) a prohibition imposed under subsection (3) above may be against driving the vehicle on a road until the weight has been reduced and official notification has been given to whoever is for the time being in charge of the vehicle that it is permitted to proceed.

(7) Official notification for the purposes of subsection (6)(b) above must be in writing and be given by an authorised person and may be withheld until the vehicle has been weighed or re-weighed in order to satisfy the person giving the notification that the weight has been sufficiently reduced”.

9 In section 2 (enforcement etc. of prohibitions under section 1 of the Act), after subsection (3) insert—

“(3A) If the prohibition under section 1 of this Act has been imposed with a direction under subsection (6)(a) of that section, the prohibition shall not

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then be removed under subsection (3) above unless and until the vehicle has been inspected at an official testing station.

(3B) In the case of vehicles brought to an official testing station for inspection with a view to removal of a prohibition, section 58(5A) of the Road Traffic Act 1972 (fees for inspection) applies.”.

10 In section 7(1) (interpretation) after the definition of "goods vehicle " insert—  
 “" official testing station " means a station maintained by the Secretary of State under section 58(5) of the Road Traffic Act 1972”.

#### SCHEDULE 4

Section 24(4).

#### REPEALS

Chapter	Short Title	Extent of Repeal
<a href="#">1967 c. 76.</a>	Road Traffic Regulation Act 1967.	In Schedule 6, the amendment of section 135(2) of the Road Traffic Act 1960.
<a href="#">1968 c. 73.</a>	Transport Act 1968.	In section 30(1)(c), the words from " by means of vehicles " to " passengers ".  In paragraph 3 of Schedule 2, the words from " but no order " onwards.
<a href="#">1969 c. 35.</a>	Transport (London) Act 1969.	In section 24(4), paragraph (a).
<a href="#">1972 c. 20.</a>	Road Traffic Act 1972.	In section 57(7), the word " and" at the end of paragraph (a), and paragraph (b).
<a href="#">1972 c. 70.</a>	Local Government Act 1972.	Section 203.
<a href="#">1973 c. 65.</a>	Local Government (Scotland) Act 1973.	In Schedule 18, paragraph 31.
<a href="#">1974 c. 7.</a>	Local Government Act 1974.	In section 6(1), the word "and " at the end of paragraph (c).
<a href="#">1977 c. 25.</a>	Minibus Act 1977.	Section 1(5).