



# Transport Act 1985

## 1985 CHAPTER 67

### PART V

#### FINANCIAL PROVISIONS

##### *Expenditure on public passenger transport services*

#### **88 Expenditure on public passenger transport services**

- (1) Any power conferred on any authority responsible for expenditure on public passenger transport services to enter into agreements providing for service subsidies (however framed, and whether arising under this Act or under any other enactment) shall be subject to sections 89 to 92 of this Act.
- (2) It shall be the duty—
  - (a) of all such authorities, in exercising and performing their functions with respect to securing the provision of public passenger transport services; and
  - (b) of all authorities who are—
    - (i) local education authorities in England and Wales or education authorities in Scotland ; or
    - (ii) local authorities exercising, in England and Wales, social services functions or, in Scotland, social work functions;in relation to any expenditure on transport for the purposes of or in connection with the exercise and performance of their functions as local education authorities or education authorities or (as the case may be) of their social services or social work functions ;to co-operate with one another so as to secure, in the interests of the ratepayers of their areas, the best value for money from their expenditure on public passenger transport, taken as a whole.
- (3) In subsection (2)(b)(ii) above " local authority " means—
  - (a) in relation to England and Wales, an authority who are a local authority for the purposes of the Local Authority Social Services Act 1970 ; and

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- (b) in relation to Scotland, an authority who are a local authority for the purposes of the Social Work (Scotland) Act 1968.
- (4) It shall be the duty of all authorities mentioned in subsection (2) above to afford to one another such information as may be reasonably required for the purpose of the co-operation required of them under that subsection.
- (5) Where, as a result of any such co-operation, any such authority—
  - (a) incur expenditure which they would not otherwise have incurred; or
  - (b) receive less revenue than they would otherwise have done; that authority may, by notice to the other authority or authorities concerned, require that other authority or (as the case may be) those other authorities to reimburse the amount of that expenditure or of that reduction in revenue.
- (6) If —
  - (a) any amount in respect of which, in accordance with a notice under subsection (5) above, any such authority or authorities are required to reimburse another such authority; or
  - (b) where two or more such authorities are required by any such notice to reimburse another such authority, the share of that amount payable by each authority concerned ;

is not determined by agreement between both or all the authorities concerned within six months of the receipt of the notice or such longer period as may be agreed between them, that amount and (where paragraph (b) above applies) the share payable by each authority concerned shall be determined by an arbitrator or, in Scotland, by an arbiter.

- (7) Any such arbitrator or (as the case may be) arbiter shall be appointed either by agreement between the authorities concerned or, in default of such agreement, by the President of the Chartered Institute of Public Finance and Accountancy.
- (8) References in this Part of this Act to authorities responsible for expenditure on public passenger transport services are references to—
  - (a) Passenger Transport Executives;
  - (b) non-metropolitan county and district councils in England and Wales; and
  - (c) regional and islands councils in Scotland;

and in sections 89 to 92 of this Act include references to London Regional Transport in relation to any exercise of their power under section 3(2) of the London Regional Transport Act 1984 (contracting-out powers) which by virtue of section 65(3) of this Act is subject to those sections.

## **89      Obligation to invite tenders for subsidised services**

- (1) Subject to sections 90 and 91 of this Act, an authority responsible for expenditure on public passenger transport services may not enter into an agreement providing for service subsidies under which a local service is to be provided except by accepting a tender invited in pursuance of this section.
- (2) Where any such authority propose to secure the provision of any local service by entering into any such agreement, the authority shall invite tenders for the provision of that service for such period and on such basis as may be specified in the invitation to tender.

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- (3) An invitation to tender under this section may not include conditions with respect to the terms of employment of persons to be employed in providing any service to which the invitation to tender relates.
- (4) Subject to subsection (5) below, any such invitation—
  - (a) must be issued generally, in such manner as the authority issuing the invitation consider appropriate for bringing it to the attention of persons who may be interested; and
  - (b) must also be issued individually to all persons who have given to that authority a written notice indicating that they wish to receive invitations to tender for the provision of local services for that authority's area or (as the case may be) for the provision of such services of any description to which the invitation relates.
- (5) Any such notice shall specify the address to which any such invitation is to be directed, and it shall be sufficient for the purposes of subsection (4)(b) above if the authority send the invitation to the person giving any such notice at the address so specified.
- (6) An authority issuing an invitation to tender under this section shall not accept any tender submitted by a person who is not the holder of either—
  - (a) a PSV operator's licence, not being—
    - (i) a licence which is for the time being of no effect by reason of its suspension; or
    - (ii) a licence to which any condition is attached under section 26 of this Act prohibiting the holder from using vehicles under the licence to provide local services of all descriptions or (as the case may be) of any description to which the invitation relates ; or
  - (b) a permit under section 22 of this Act.
- (7) The authority issuing any invitation to tender under this section shall determine—
  - (a) whether to accept a tender submitted in response to the invitation; or
  - (b) which (if any) of several such tenders to accept;solely by reference to what in their view is the most effective and economic application of the funds at their disposal for the payment of service subsidies.
- (8) Subsection (7) above shall not be taken as requiring the authority to limit their consideration, in the case of any such invitation to tender, to the application of those funds for the purpose of securing the provision of the particular service to which that invitation to tender relates; and accordingly the authority may (in particular) take into account in making, in relation to any such invitation to tender, any determination to which that subsection applies—
  - (a) posts and benefits in relation to any proposed expenditure by that or any other authority for the purpose of securing the provision of any other public passenger transport service;
  - (b) costs and benefits in relation to any proposed expenditure on transport for the purposes of or in connection with the exercise and performance by that or any other authority of any functions of a description mentioned in section 88(2)(b) of this Act; and
  - (c) any matter appearing to the authority to be relevant to determining whether the particular service to which that invitation to tender relates, and any other relevant service, would be effectively provided by any person who has submitted a tender in response to that invitation to tender.

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For the purposes of paragraph (c) above, a service other than the particular service there mentioned is relevant if the authority propose to incur expenditure for the purpose of securing its provision and any tender or proposal for the provision of that service by any such person is also under consideration by the authority.

## **90 Provisions supplementary to section 89**

- (1) The period specified in any invitation to tender issued under section 89 of this Act as the period for which a service to which the invitation relates is to be provided shall not exceed five years beginning with the date on which any agreement entered into by accepting a tender submitted in response to the invitation is concluded.
- (2) Such information as may be prescribed with respect to any tenders submitted in response to any such invitation to tender shall be published by the authority issuing the invitation in such manner as may be prescribed.
- (3) On entering into an agreement by accepting any such tender that authority shall publish in such manner as may be prescribed their reasons for considering that the payment of service subsidies to secure the service in question in accordance with the terms of that tender is conducive to achieving the most effective and economic application of the funds at their disposal for the payment of such subsidies.
- (4) Regulations may provide for treating a specification of terms of service, in such form as may be prescribed—
  - (a) prepared, with reference to any invitation to tender issued under section 89 of this Act by any authority responsible for expenditure on public passenger transport services, by the authority issuing the invitation with respect to the provision of that service by a company to be formed in pursuance of any requirement under Part IV of this Act to carry on any business which includes any current activities of that authority; and
  - (b) ratified by that company after its formation within such period and in such manner as may be prescribed ;
 as if it were a tender submitted in response to that invitation by that company within any period allowed for the submission of tenders in accordance with that invitation.
- (5) The reference in subsection (4)(a) above to any current activities of an authority responsible for expenditure on public passenger transport services is a reference to any activities which at the time when the specification of terms of service is prepared are currently carried on by or on behalf of that authority, or by any body of which that authority is a member or to which it appoints any members.

## **91 Exceptions from section 89**

- (1) Regulations may provide for excluding from section 89(1) of this Act agreements of any description specified in the regulations; and any such description may be framed by reference to—
  - (a) the description of service to which the agreement relates ;
  - (b) the description of persons proposing to operate the service;
  - (c) the period for which the service is to be provided under the agreement;
  - (d) the aggregate amount of the service subsidies provided for under the agreement; or
  - (e) any other relevant circumstances.

- (2) Section 89(1) of this Act shall not apply in any case where it appears to an authority responsible for expenditure on public passenger transport services that action is urgently required for the purpose of—
- (a) maintaining an existing service ;
  - (b) securing the provision of a service in place of a service which has ceased to operate ; or
  - (c) securing the provision of a service to meet any public transport requirement which has arisen unexpectedly and ought in the opinion of the authority to be met without delay;
- and that it is necessary for that purpose to enter into an agreement providing for service subsidies in order to secure that service.
- (3) Where by virtue of subsection (2) above any such authority enter into an agreement to which section 89(1) of this Act does not apply, the authority shall as soon as possible invite tenders for the provision of the service which is the subject of that agreement for such period and on such basis as may be specified in the invitation to tender; and sections 89(3) to (8) and 90 of this Act shall apply in any such case as if the invitation had been issued under section 89(2).
- (4) Any agreement entered into by virtue of subsection (2) above shall be made so as to remain in force no later than the end of the period of three months beginning with the day immediately following the end of the period allowed for the submission of tenders in accordance with the invitation to tender issued under subsection (3) above.
- (5) Subject to the following provisions of this section, where—
- (a) an invitation to tender for the provision of any service is issued under section 89(2) of this Act or subsection (3) above; and
  - (b) no tender, or no tender which the authority issuing the invitation consider acceptable, is submitted in response to that invitation;
- any power of that authority to enter into an agreement providing for service subsidies in order to secure that service shall cease to be subject to section 89(1) of this Act.
- (6) Any agreement which by virtue of subsection (5) above is entered into by an authority responsible for expenditure on public passenger transport services otherwise than by acceptance of a tender invited in pursuance of section 89 or subsection (3) above shall be made so as to remain in force no later than the end of the period specified in pursuance of section 90(1) of this Act in the invitation to tender mentioned in subsection (5)(a) above.
- (7) On entering into any such agreement an authority shall publish in such manner as may be prescribed either—
- (a) a statement that no tender was submitted in response to that invitation to tender ; or
  - (b) a statement of their reasons for considering that no tender so submitted was acceptable ;
- as the case may require.

## **92 General provisions with respect to the exercise of service subsidy functions**

- (1) An authority responsible for expenditure on public passenger transport services shall, in the exercise and performance of their functions in relation to agreements providing for service subsidies, so conduct themselves as not to inhibit competition between

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persons providing or seeking to provide public passenger transport services in their area.

- (2) Regulations under this section—
- (a) may make further provision for regulating the exercise and performance by authorities responsible for expenditure on public passenger transport services of their functions in relation to agreements providing for service subsidies ; and
  - (b) may make provision for limiting to an amount specified in the regulations the aggregate amount of the service subsidies any such authority may agree to pay under any one such agreement; and
  - (c) may make provision for exceptions from section 89(4) of this Act in such cases as may be prescribed.
- (3) The provisions of sections 89 to 91 of this Act shall be subject to this section and any provision made by regulations under this section.

#### *Travel concession schemes*

### **93 Travel concession schemes**

- (1) Any local authority, or any two or more local authorities acting jointly, may establish a travel concession scheme for the provision of travel concessions on journeys on public passenger transport services—
- (a) between places in the principal area covered by the scheme;
  - (b) between such places and places outside but in the vicinity of that area ; or
  - (c) between places outside but in the vicinity of that area;
- by operators of such services participating in the scheme.
- (2) For the purposes of this section, the principal area covered by a scheme under this section is—
- (a) the area of the local authority concerned or, where two or more such authorities are concerned, the area comprising the areas of both or all those authorities; or
  - (b) if an area comprised within the area which would be the principal area under paragraph (a) above is specified in the scheme as being the principal area to which the scheme applies, the area so specified.
- (3) Any travel concession scheme established under this section shall define—
- (a) the travel concessions which are for the time being to be provided by operators participating in the scheme;
  - (b) the description of persons eligible in accordance with subsection (7) below to receive travel concessions under any such scheme who are for the time being to qualify for travel concessions provided under the scheme ; and
  - (c) the dates in any year currently adopted as the dates on which operators may be admitted to participate in the scheme under section 96 of this Act (referred to below in this section as the standard admission dates);
- and may include particulars of any other arrangements for the time being adopted by the authority or authorities concerned in establishing the scheme with respect to the operation, scope and application of the scheme.

- (4) Any such scheme may define the standard admission dates by specifying particular dates, or by referring to dates of any specified description or separated by intervals of any specified length; but those dates, however determined, must not be separated by intervals of a length exceeding such period as may be prescribed.
- (5) Arrangements adopted by the authority or authorities concerned in establishing any such scheme with respect to the operation, scope and application of the scheme (including the matters specifically mentioned in paragraphs (a) to (c) of subsection (3) above) may differ for different descriptions of concessions or services to which the scheme applies.
- (6) Subject to section 94 of this Act, where an operator participating in any such scheme in respect of any services operated by him provides travel concessions in accordance with the scheme for persons travelling on those services, the authority responsible for administration of the scheme or (as the case may be) the authorities so responsible in such proportions respectively as they may agree among themselves shall reimburse that operator for providing those concessions.
- (7) The persons eligible to receive travel concessions under any such scheme are—
  - (a) men over the age of sixty-five years and women over the age of sixty years;
  - (b) persons whose age does not exceed sixteen years ;
  - (c) persons whose age exceeds sixteen years but does not exceed eighteen years and who are undergoing full-time education;
  - (d) blind persons, that is to say, persons so blind as to be unable to perform any work for which sight is essential;
  - (e) persons suffering from any disability or injury which, in the opinion of the authority or any of the authorities responsible for administration of the scheme, seriously impairs their ability to walk ; and
  - (f) such other classes of persons as the Secretary of State may by order specify.
- (8) In this section " local authority "—
  - (a) means the council of a county or district in England and Wales or a regional or islands council in Scotland ; and
  - (b) includes also, in relation to England and Wales, a metropolitan county passenger transport authority.
- (9) Unless the context otherwise requires, references in this section and in the provisions of this Part of this Act relating to schemes under this section to the authority or authorities responsible for administration of a scheme under this section are references—
  - (a) except in a case to which paragraph (b) below applies, to the authority concerned in establishing the scheme or, where two or more authorities are so concerned, to both or all those authorities acting jointly; or
  - (b) where the authority or one of the authorities concerned in establishing the scheme are a Passenger Transport Authority for a passenger transport area in England and Wales, to the Passenger Transport Executive for that Authority's area or (as the case may require) to that Executive and the other authority or authorities so concerned acting jointly.
- (10) Where a Passenger Transport Authority have established a scheme under this section, whether alone or jointly with any other authority or authorities, they shall notify the

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Passenger Transport Executive for their area of any proposal to vary the scheme, giving particulars of the proposed variation.

**94 Administration of schemes: reimbursement, etc.**

(1) Regulations under this section may make provision with respect to any of the following matters—

- (a) the factors to be taken into account by the authority or authorities responsible for administration of a travel concession scheme under section 93 of this Act in determining the aggregate amount that may be made available for the purpose of reimbursing operators participating in the scheme for providing travel concessions during any period;
- (b) the determination by the authority or authorities so responsible of the amounts to be paid to individual operators participating in the scheme, or to any class of such operators, by way of reimbursement for providing such concessions;
- (c) the manner of making any payments due to operators by way of such reimbursement;
- (d) the provisions or descriptions of provisions that are to be or (as the case may be) may or may not be included in arrangements agreed with operators or adopted by the authority or authorities so responsible with respect to participation of operators in the scheme ; and
- (e) the terms on which and the extent to which the authority or authorities so responsible may employ any person as their agent for the purposes of the administration of the scheme and the descriptions of persons who may be so employed.

(2) Subject to any provision of regulations made by virtue of subsection (1)(d) above and to the following provisions of this section, the arrangements with respect to participation of operators in any such scheme shall be such as may from time to time be agreed between the authority or authorities responsible for administration of the scheme and individual operators.

(3) Subject to—

- (a) any provision of regulations under subsection (1) above ;
- (b) any modifications that may by virtue of any provision of regulations made by virtue of paragraph (d) of that subsection or in accordance with section 96 of this Act be agreed between the authority or authorities responsible for administration of any such scheme and any individual operator; and
- (c) any modifications applied in the case of any individual operator by a direction given under section 98 of this Act;

the arrangements with respect to reimbursement and terms of withdrawal from participation in the scheme applicable to operators of eligible services participating in the scheme shall be such as the authority or authorities responsible for administration may from time to time adopt and must be the same in the case of all such operators.

(4) For the purposes of the provisions of this Part of this Act relating to schemes under section 93 of this Act, a service is an eligible service if it is a service qualifying for fuel duty grant.

(5) The arrangements currently adopted by the authority or authorities responsible for administration of any such scheme with respect to reimbursement of operators of eligible services participating in the scheme are referred to below in this Part of this



Act, in relation to that scheme, as the current reimbursement arrangements for eligible service operators participating in the scheme.

- (6) In relation to operators participating in any such scheme, references in this section to arrangements with respect to reimbursement are references to conditions of entitlement of such operators to, and the method of determination and manner of payment of, reimbursement in respect of travel concessions provided under the scheme.

## **95 Publicity requirements for schemes and reimbursement arrangements**

- (1) On or before the date on which a scheme under section 93 of this Act comes into operation or, where it comes into operation on different dates with respect to different concessions to be provided under the scheme, on or before the first of those dates—
- (a) the authority or authorities concerned in establishing it shall publish particulars of the scheme ; and
  - (b) the authority or authorities responsible for administration of the scheme shall publish particulars of the current reimbursement arrangements for eligible service operators participating in the scheme as they are to apply on initial establishment of the scheme;

in such manner, in either case, as the authority or authorities concerned think fit.

- (2) Particulars of any subsequent variations shall be published—
- (a) in the case of variations of the scheme, by the authority or authorities concerned in establishing the scheme; and
  - (b) in the case of variations of the arrangements, by the authority or authorities responsible for administration of the scheme.
- (3) Following publication under subsection (1)(a) or (as the case may be) under subsection (1)(b) above of particulars of any scheme or arrangements—
- (a) copies of the scheme or (as the case may be) of the arrangements (with any subsequent variations) shall be made available at the principal office of the authority or (as the case may be) of each authority concerned; and
  - (b) a copy shall be supplied to any person on request (whether at that office or by post) either free of charge or at a charge representing the cost of providing the copy.

- (4) Where the authority or any of the authorities concerned in establishing a scheme under section 93 of this Act are a Passenger Transport Authority, they shall notify the Passenger Transport Executive for their area of any proposal to publish particulars of the scheme in advance of its coming into operation, giving the proposed date of publication.

## **96 Right of eligible service operators to participate in travel concession schemes**

- (1) Subject to the following provisions of this section, where any operator or prospective operator of an eligible service which runs or will run between places within the limits covered by any scheme under section 93 of this Act applies to the authority or authorities responsible for administration of that scheme to be admitted to participate in it in respect of that service, the authority or authorities in question shall be obliged to admit that operator to participation in the scheme in respect of that service as from any standard admission date under the scheme not later than the one next following—

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- (a) the end of such period as may be prescribed beginning with the date of his application; or
  - (b) the date on which the service begins;whichever last occurs.
- (2) The Secretary of State may, on the application of the authority or authorities responsible for administration of any such scheme, exempt the authority or authorities in question from the obligation under subsection (1) above in relation to any service or description of services; and the Secretary of State may at any time withdraw or vary any exemption granted under this subsection.
- (3) An exemption may not be granted under subsection (2) above on the application of a Passenger Transport Executive, or on the joint application of authorities who include such an Executive, unless the application is made with the consent of the Passenger Transport Authority for that Executive's area.
- (4) Subject to any regulations under section 94(1)(d) of this Act, where it appears to the authority or authorities responsible for administration of any such scheme, in the case of any operator or prospective operator of an eligible service who applies to be admitted to participate in the scheme in respect of that service, that fares currently charged or proposed to be charged by that operator for relevant journeys on that service include a special amenity element, the authority or authorities in question shall not be required by subsection (1) above to admit that operator to participation in the scheme in respect of that service unless that operator agrees to appropriate modifications of the current reimbursement arrangements for eligible service operators participating in the scheme.
- (5) Subject to any such regulations, where it appears to the authority or authorities responsible for administration of any such scheme, in the case of any operator of an eligible service participating in the scheme, that fares currently charged by that operator for relevant journeys on that service include a special amenity element, the authority or authorities in question may by notice of not less than such period as may be prescribed exclude that operator from participation in the scheme in respect of that service unless before the end of that period that operator agrees to appropriate modifications of the current reimbursement arrangements for eligible service operators participating in the scheme.
- (6) For the purposes of subsections (4) and (5) above fares for relevant journeys are to be regarded as including a special amenity element if they are significantly high in relation to the general level of fares for comparable journeys in the principal area covered by the scheme (within the meaning of section 93 of this Act).
- (7) References in those subsections to appropriate modifications of the reimbursement arrangements there mentioned are references to such modifications of those arrangements as the authority or authorities concerned consider appropriate for providing reimbursement in respect of travel concessions provided for relevant journeys on the service in question by reference to the general level of fares mentioned in subsection (6) above instead of by reference to the actual fares charged (or proposed to be charged) for those journeys.
- (8) For the purposes of this section " relevant journeys " are journeys on which travel concessions are to be provided under the scheme in question.

- (9) For the purposes of this section and section 97 of this Act, references to a prospective operator of an eligible service are references to a person who has registered a local service under section 6 of this Act but is not yet operating that service.

## **97 Compulsory participation in travel concession schemes**

- (1) Subject to subsection (8) below, where the arrangements currently adopted by the authority or authorities responsible for administration of a scheme under section 93 of this Act with respect to the terms on which operators of eligible services may withdraw from participation in the scheme require such an operator to give notice before withdrawing from the scheme in respect of any such service, any such operator shall be obliged to provide any travel concessions required by the scheme on journeys on any such service in respect of which he is participating in the scheme until he gives the required notice of withdrawal and the period of notice has expired.
- (2) Subject to the following provisions of this section, the authority or authorities responsible for administration of any such scheme may at any time by notice in writing served on any operator or prospective operator of an eligible service (including an operator already participating in the scheme) impose on him an obligation to provide travel concessions in accordance with the scheme on journeys on any such service operated by that operator to which the notice applies.

A notice under this subsection is referred to below in this Part of this Act as a participation notice.

- (3) The power under subsection (2) above to serve a participation notice shall not be exercisable in relation to any such scheme until after the date (or whichever last occurs of the respective dates) of first publication under section 95 of this Act of particulars of the scheme and of the current reimbursement arrangements for eligible service operators participating in the scheme as they are to apply on initial establishment of the scheme.
- (4) An obligation imposed by a participation notice shall, subject to subsection (8) below and sections 98 and 99 of this Act, be effective in relation to any service to which the obligation applies as from the appropriate commencement date for that service until the end of such period beginning with that date as may be specified in the participation notice.
- (5) Subject to subsection (9) below, for the purposes of subsection (4) above the appropriate commencement date for any service to which an obligation imposed by a participation notice applies is—
- (a) the date immediately following the end of such period of notice as may be specified in the participation notice; or
  - (b) the date when the service begins;
- whichever last occurs.
- (6) Where it is proposed—
- (a) to vary a scheme under section 93 of this Act; or
  - (b) to vary the current reimbursement arrangements for eligible service operators participating in any such scheme;

the authority or authorities responsible for administration of the scheme may, not less than such period before the variation is to take effect as may be prescribed, by notice served on any operator of any such service who is under an obligation under this

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section to provide travel concessions in accordance with the scheme, require him to indicate, within such period and in such manner as may be prescribed, whether or not he is willing to continue to participate in the scheme after the variation takes effect.

- (7) Any notice under subsection (6) above shall give particulars of the proposed variation.
- (8) Where in pursuance of subsection (6) above an operator indicates that he is not willing to continue to participate in the scheme after the variation takes effect, any obligation of that operator under this section to provide travel concessions in accordance with the scheme which was current at the date of the notice under that subsection and would still apart from this subsection be in force on the date when the variation takes effect shall cease on the latter date (without prejudice, however, to the service of a new participation notice).
- (9) Where a notice is served on an operator under subsection (6) above the preceding provisions of this section shall apply, on and after the date when the variation in question takes effect, in relation to any obligation of that operator under subsection (2) above to provide travel concessions in accordance with the scheme in question which—
- (a) was current at the date of the notice ; and
  - (b) does not cease (by virtue of subsection (8) above or otherwise) before the date when that variation takes effect;
- as if the latter date were the appropriate commencement date for the purposes of subsection (4) above for each service to which the obligation applies.
- (10) The exercise of the power to serve a participation notice under this section on any person—
- (a) by a Passenger Transport Executive ; or
  - (b) by authorities responsible for administration of a scheme under section 93 of this Act who include such an Executive;
- shall require the consent of the Passenger Transport Authority for the Executive's area.

## **98 Further provisions with respect to participation notices**

- (1) The authority or authorities by whom a participation notice is served on any person shall send to that person, together with the notice, a copy of—
- (a) such particulars of the scheme to which the notice relates and of any variations of that scheme; and
  - (b) such particulars of the current reimbursement arrangements for eligible service operators participating in the scheme and of any variations of those arrangements;
- as have been published under section 95 of this Act before the date of the notice.
- (2) Subject to the following provisions of this section, a person on whom a participation notice has been served may apply to the Secretary of State for cancellation or variation of that notice on either or both of the following grounds, that is to say—
- (a) that there are special reasons why his participation in the scheme in question in respect of the service or any of the services to which the notice applies would be inappropriate; and
  - (b) that any provision of the scheme or of any such arrangements as are mentioned in subsection (1)(b) above are inappropriate for application in relation to operators other than operators voluntarily participating in the scheme.

- (3) Subject to subsection (4) below, an application under subsection (2) above may be made by notice in writing given to the Secretary of State before the end of the period of twenty-eight days beginning with the date of the participation notice.
- (4) A person may not make such an application unless he has given notice in writing of his intention to do so to the authority or authorities by whom the participation notice was served—
  - (a) if a period allowed for that purpose is specified in the participation notice, before the end of that period; or
  - (b) in any other case, at any time before the date of the notice given to the Secretary of State under subsection (3) above.
- (5) Where on any such application the Secretary of State finds the ground mentioned in subsection (2) (a) above established, he may cancel the participation notice or (as the case may require) vary it by excluding from it any service operated by the applicant in respect of which he considers the applicant's participation in the scheme would be inappropriate.
- (6) Where on any such application the Secretary of State finds the ground mentioned in subsection (2)(b) above established, he shall cancel the participation notice unless he considers that a direction under subsection (7) below would meet the case.
- (7) Where on any such application the Secretary of State does not cancel the participation notice, he may direct that the current arrangements for reimbursement of eligible service operators participating in the scheme shall apply in the case of the applicant or (as the case may require) in the case of any service operated by the applicant to which the participation notice applies with such modifications as may be specified in the direction.
- (8) If the Secretary of State cancels a participation notice under subsection (6) above he shall give to the authority or authorities by whom the notice was served a notice in writing indicating in what respects the scheme or (as the case may be) the current reimbursement arrangements for eligible service operators participating in the scheme are inappropriate for application in relation to operators other than operators voluntarily participating in the scheme.
- (9) Any obligation under section 97(2) of this Act which has come into effect before the determination of any application under this section with respect to the participation notice by which that obligation was imposed shall—
  - (a) cease to have effect, if the notice is cancelled; or
  - (b) have effect, if the notice is varied, subject to a corresponding variation;on such date as may be specified by the Secretary of State in determining the application.

## **99 Release from compulsory participation**

- (1) The authority or authorities responsible for administration of a scheme under section 93 of this Act may at any time by notice in writing served on any operator who is under an obligation under section 97(2) of this Act to provide travel concessions in accordance with the scheme on journeys on any eligible service operated by him release him from that obligation in respect of that service.

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- (2) Subject to the following provisions of this section, any such operator may at any time by notice in writing apply to the Secretary of State to be released from that obligation in respect of any such service on the ground that the authority or authorities responsible for administration of the scheme have failed to comply with their obligation under section 93(6) of this Act.
- (3) An operator may not make such an application unless he has given notice in writing of his intention to do so to the authority or authorities responsible for administration of the scheme not less than twenty-eight days before the date of the application.
- (4) A notice under subsection (2) or (3) above shall give particulars of any alleged failures of the authority or authorities in question to comply with their obligation under section 93(6) of which the operator complains.
- (5) On any such application the Secretary of State may, if he finds the applicant's ground of complaint established, determine that the applicant's obligation under section 97(2) shall cease on such date as may be specified in the determination.

#### **100 Provisions supplementary to sections 96 to 99**

- (1) Regulations under this section may make provision as to—
  - (a) the maximum or (as the case may be) minimum period that may for the purposes of any provision of section 97 or 98 of this Act be specified in a participation notice;
  - (b) the form and contents of participation notices and other notices required for any purposes of sections 96 to 99 of this Act; and
  - (c) the manner in which any such notice is to be served.
- (2) Where the Secretary of State cancels or varies a participation notice under section 98 of this Act after the obligation imposed by that notice has come into effect he may award compensation to the applicant under subsection (4) below if it appears to him that the applicant has suffered—
  - (a) in a case where the notice is cancelled, any loss attributable to his participation in the scheme in question; or
  - (b) in a case where the notice is varied by excluding from it any service operated by the applicant, any loss attributable to his participation in that scheme in respect of that service.
- (3) Where on determining an application under section 99 of this Act the Secretary of State finds that the authority or authorities responsible for administration of the scheme in question have failed to comply with their obligation under section 93(6) of this Act, he may award compensation to the applicant under subsection (4) below if it appears to him that the applicant has suffered any loss attributable to that failure.
- (4) In any case to which subsection (2) or (3) above applies the Secretary of State may by notice in writing require the authority responsible for administration of the scheme in question or (as the case may be) the authorities so responsible in such proportions as may be specified in the notice to pay to the applicant such an amount by way of compensation in respect of the loss there mentioned as may be so specified.
- (5) The Secretary of State may if he thinks fit appoint a person to determine an application under section 98 or 99 of this Act on his behalf; and references in those sections and

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in subsections (2) to (4) above to the Secretary of State shall be read as including references to a person so appointed.

- (6) Regulations under this section may prescribe the procedure to be followed in connection with applications under sections 98 and 99 of this Act and may in particular (but without prejudice to the generality of that) include provision—
  - (a) as to the conduct of any proceedings held in connection with any such application; and
  - (b) enabling the Secretary of State to require either the applicant or the authority or authorities responsible for administration of the scheme in question, or both or all of them, to pay such sum as the Secretary of State may determine towards any expenses incurred by him in connection with the determination of the application.
- (7) Where a requirement under subsection (4) above is imposed on more than one authority, the liability of the authorities concerned to the applicant—
  - (a) shall extend to the whole of the amount specified in the notice imposing the requirement; and
  - (b) shall be both joint and several;but if any such authority make any payment\* in or towards the discharge of that liability, of an amount exceeding the amount representing any proportion specified in the notice as that authority's share, that authority shall be entitled to recover an appropriate contribution (determined by reference to the proportions specified in that notice) from the other authority or authorities concerned,
- (8) Any sums paid to the Secretary of State by virtue of subsection (6)(b) above shall be paid into the Consolidated Fund.

## **101 Enforcement of participation in travel concession schemes**

- (1) If during any period an operator of any service who is under an obligation under section 97 of this Act to provide travel concessions in accordance with a scheme under section 93 of this Act for persons travelling on that service systematically fails to comply with that obligation he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (3) Where the affairs of a body corporate are managed by its members, subsection (2) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (4) Proceedings for an offence under this section shall not, in England and Wales, be instituted except by the authority, or any one of the authorities, responsible for administration of the scheme in question or by or with the consent of the Director of Public Prosecutions (and any such authority who would not apart from this subsection have power to bring such proceedings, shall accordingly have that power).

## **102 Application of Passenger Transport Executive's financial plan to expenditure on travel concessions under schemes**

(1) In section 3 of the Transport Act 1983 (preparation and submission of financial plans by Passenger Transport Executive)—

(a) in subsection (1), the word "and " immediately following paragraph (a) shall be omitted, and after paragraph (b) there shall be added the following words—

“and

(c) the general level and structure of travel concessions (meaning reductions or waivers of fares) to be provided in the relevant period under any scheme established by the Authority under section 93 of the Transport Act 1983 (whether alone or jointly with any local authority within the meaning of that section).”;

(b) in subsection (3), after " 1968 " there shall be inserted' the words " or for carrying out their functions with respect to the administration of any such scheme as is-mentioned in subsection (1)(c) above "; and

(c) in subsection (4), the word " and " immediately following paragraph (b) shall be omitted, and after paragraph (c) there shall be added the following words—

“and

(d) the cost to the Executive of reimbursing persons providing travel concessions under any such scheme as is mentioned in subsection (1)(c) above.”.

(2) In section 4 of that Act

(a) in subsection (2)(c), at the end there shall be added the words " or (as the case may be) as to the cost of requiring under any such scheme as is mentioned in section 3(1)(c) above the provision of travel concessions-at a level higher than, or differently structured from, the level and structure of such concessions for which that scheme currently provides. "; and

(b) in subsection (3)(a), for " (c)" there shall be substituted " (d) ".

### *Travel concessions apart from schemes*

## **103 Subsidies for travel concessions**

(1) The payments provided for under an agreement providing for service subsidies entered into by an authority responsible for expenditure on public passenger transport services may not include payments in respect of the provision of travel concessions except as provided below in this section.

(2) Subject to subsection (3) below, provision may be included in any such agreement for the making of payments by the authority in question to the person providing the service to which the agreement relates in respect of the provision of travel concessions on journeys on that service or any part of it for any description of persons eligible in accordance with section 93(7) of this Act to receive travel concessions under a travel concession scheme under that section.

(3) Subsection (2) above only applies where the concessions in question are not available, or not available to that description of persons, under any such scheme administered



by the authority concerned or by that authority acting jointly with any other authority or authorities.

#### **104 Travel concessions on services provided by Passenger Transport Executives**

- (1) A Passenger Transport Executive may not in exercise of their powers under section 10(1)(xiii) of the 1968 Act (power of Passenger Transport Executive to charge for services and waive their charges, etc.) provide travel concessions for persons travelling on any public passenger transport service provided by the Executive other than persons of any description eligible in accordance with section 93(7) of this Act to receive travel concessions under a travel concession scheme established under that section, except where those concessions are provided under any agreement or arrangements under which the whole of the cost of providing those concessions is to be met by a person other than that Executive or the Passenger Transport Authority for that Executive's area.
- (2) The approval of the Passenger Transport Authority for a passenger transport area under section 15(2) of the 1968 Act (approval of Passenger Transport Authority required for alterations by Executive in general level of charges and for reduction or waiver of charges by Executive) shall not be required for travel concessions granted by the Passenger Transport Executive for that area for persons travelling on any public passenger transport service provided by the Executive if those concessions are granted—
  - (a) in accordance with any scheme established under section 93 of this Act by any authority other than the Passenger Transport Authority for that Executive's area or (as the case may be) by authorities who do not include that Passenger Transport Authority; or
  - (b) where that Executive's area is in England and Wales, in pursuance of arrangements made with that Executive by any local authority within the meaning of the National Assistance Act 1948 in exercise of their powers under section 29 of that Act (welfare arrangements for handicapped persons);or correspond to travel concessions under any scheme established under section 93 of this Act by the Passenger Transport Authority for that Executive's area or (as the case may be) by authorities who include that Passenger Transport Authority.
- (3) For the purposes of subsection (2) above, travel concessions granted by the Executive for a passenger transport area on any such service correspond to travel concessions under any such scheme if they are—
  - (a) of the same value ;
  - (b) available subject to the same terms, limitations or conditions ; and
  - (c) available to persons of the same description ;as the travel concessions provided under that scheme.

#### **105 Travel concessions on services provided by local authorities**

- (1) Where the council of any county or district in England and Wales or of any region or islands area in Scotland are operating any public passenger transport service, they shall have power to provide travel concessions for persons travelling on that service of any description eligible in accordance with section 93(7) of this Act to receive travel concessions under a travel concession scheme established under that section.

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- (2) In respect of travel concessions provided under this section, any such council may, if they think fit, from time to time transfer to the credit of the account of their transport undertaking sums from the general rate fund or, where that council is the council of any region or islands area in Scotland, from the general fund (within the meaning of section 93 of the Local Government (Scotland) Act 1973).
- (3) Sums so transferred must not exceed the cost to the council concerned of providing the concessions or so much of that cost as would not apart from subsection (2) above fall to be met out of the fund there mentioned.

*Grants for transport facilities and services*

**106 Grants for transport facilities and services**

- (1) Any authority to whom this section applies, or any two or more such authorities acting jointly, may make, in such cases and subject to such terms and conditions as they think fit, grants to any other person towards expenditure incurred or to be incurred by that person in providing, maintaining or improving—
  - (a) any vehicle, equipment or other facilities provided wholly or mainly for the purpose of facilitating travel by members of the public who are disabled ; or
  - (b) any equipment or other facilities specially designed or adapted for that purpose which are incorporated in any vehicle, equipment or other facilities not provided wholly or mainly for that purpose.
- (2) Subject to subsection (3) below, any such authority, or any two or more such authorities acting jointly, may make, in such cases and subject to such terms and conditions as they think fit, grants to any person providing public passenger transport services towards expenditure incurred or to be incurred by that person for the purpose of—
  - (a) maintaining or improving facilities for public passenger transport, other than facilities provided wholly or mainly for use for the purpose of or in connection with excepted services; or
  - (b) facilitating or improving the operation of public passenger transport services, other than excepted services ;

in the area of that authority or (as the case may be) in the area comprising the areas of both or all those authorities.

In this subsection " excepted services " means services for the carriage of passengers by road which require a PSV operator's licence (within the meaning of Part IV of this Act).
- (3) Subsection (2) above shall not apply in relation to expenditure appearing to the authority or authorities in question to be of a capital nature.
- (4) This section applies to the following authorities—
  - (a) any Passenger Transport Authority or Passenger Transport Executive;
  - (b) the council of any county or district in England and Wales;
  - (c) the council of a London borough or the Common Council of the City of London ; or
  - (d) any regional or islands council in Scotland.

### *Grants for services for disabled people in London*

#### **107 Grants by London Regional Transport**

- (1) London Regional Transport may make, in such cases and subject to such terms and conditions as they think fit, grants to any voluntary organisation for the purpose of meeting (in whole or in part) any expenditure incurred or to be incurred by that organisation for the purpose of the provision of transport services provided by that organisation solely to meet the needs of disabled members of the public resident in London.
- (2) In subsection (1) above "voluntary organisation" means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority.

### *Grants for services in rural areas*

#### **108 Grants for establishment, etc., of rural passenger services in Wales and Scotland**

- (1) Subject to the following provisions of this section, the Secretary of State may, with the approval of the Treasury, make in such cases as he thinks fit a grant to any person for the purpose of securing the establishment, continuance or improvement of any public passenger transport service which in the opinion of the Secretary of State is or will be for the benefit of persons residing in any rural area in Wales or Scotland.
- (2) In the case of any grant under this section for the purpose of securing the continuance of an existing service—
  - (a) the service must be one which was established with the assistance of a grant under this section; and
  - (b) the grant must be for securing its continuance during such period from the time when it was first operated as appears to the Secretary of State to be appropriate in the case of that service.
- (3) In the case of any grant under this section for the purpose of securing the improvement of an existing service the improvement in view must be one which appears to the Secretary of State to involve an innovative approach to the use of vehicles, equipment or other facilities in providing the service.
- (4) Grants under this section shall be of such amount and subject to such conditions (including conditions requiring their repayment in specified circumstances) as the Secretary of State may, with the approval of the Treasury, determine, either generally or in relation to any particular cases or classes of case.

#### **109 Transitional rural bus grants**

- (1) Subject to the following provisions of this section, the Secretary of State may, with the approval of the Treasury, make in such cases as he thinks fit a grant to any person in respect of qualifying mileage run at any time during the period of four years beginning with the date on which this section comes into force by vehicles used by that person in operating a service which at the time in question is a service eligible for grant under this section.
- (2) A service is eligible for grant under this section at any time when—

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- (a) it is a service qualifying for fuel duty grant;
  - (b) it is being operated wholly or partly within a rural area in Great Britain (outside London); and
  - (c) it meets such other requirements as the Secretary of State thinks fit to impose; and in subsection (1) above "qualifying mileage" means, in relation to any vehicle, mileage run by that vehicle within any such rural area.
- (3) Grants under this section shall be of such amount and subject to such conditions (including conditions requiring their repayment in specified circumstances) as the Secretary of State may, with the approval of the Treasury, determine, either generally or in relation to any particular cases or classes of case.

*Miscellaneous and supplementary*

**110 Grants towards duty charged on bus fuel**

- (1) In section 92(1) of the Finance Act 1965 (grants to operators of bus services towards duty charged on bus fuel)—
- (a) the words "any bus service" shall be omitted; and
  - (b) there shall be inserted at the end the words—

“a bus service which is of a description specified for the purposes of this section and which meets any conditions which may be specified in relation to that description of service.”

- (2) For subsection (8) of that section there shall be substituted the following subsections—

“(8) In this section—

"bus service" means a local service within the meaning of the Transport Act 1985 other than an excursion or tour within the meaning of that Act, being a service which is either—

- (a) registered under Part I of that Act; or
- (b) provided under a London local service licence granted under Part II of that Act or exempt by virtue of section 36 of that Act (London bus services under control of London Regional Transport) from the requirement of a London local service licence;

"operator" has the same meaning, in relation to a bus service, as in that Act; and

"specified" means specified in regulations made by the Secretary of State by statutory instrument.

(8A) Any statutory instrument containing regulations made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

**111 Unregistered and unreliable local services: reduction of fuel duty grant**

- (1) Where the traffic commissioner for any traffic area is satisfied that the operator of a local service has, without reasonable excuse—
- (a) failed to operate a local service registered under section 6 of this Act; or

- (b) to a significant extent operated a local service in contravention of that section; he may make a determination to that effect.
- (2) Where a traffic commissioner makes a determination under subsection (1) above he shall notify the Secretary of State and the operator of the service in writing forthwith.
- (3) Where a determination has been made under subsection (1) above with respect to a local service there shall become due to the Secretary of State from the operator of the service an amount equal to twenty per cent, of any amount paid to him under section 92 of the Finance Act 1965 (grants to operators of bus services towards duty charged on bus fuel) in respect of all services operated during the period of three months ending with the day on which the traffic commissioner made his determination,
- (4) The operator of any local service in respect of which a determination has been made under subsection (1) above may appeal to the Transport Tribunal against the determination.
- (5) Any amount due to the Secretary of State under this section shall be recoverable as a debt due to the Crown; and any amount repaid to, or recovered by, him under this section shall be paid into the Consolidated Fund.

## **112 Interpretation of Part V**

- (1) In this Part of this Act—
- (a) references to authorities responsible for expenditure on public passenger transport services shall be read in accordance with section 88(8) of this Act;
  - (b) references to service subsidies are references to the payments that fall to be made by any such authority under any agreement providing for service subsidies;
  - (c) references to the current reimbursement arrangements for eligible service operators participating in any scheme under section 93 of this Act shall be read in accordance, with section 94(5) of this Act;
  - (d) references to a participation notice shall be read in accordance with section 97(2) of this Act;
  - (e) references to securing the provision of a service include references to securing the provision of a service by way of continuance of an existing service, and references in any other context to the provision of a service are to be read consistently with that; and
  - (f) " travel concession " means the reduction or waiver of a fare either absolutely or subject to terms, limitations or conditions.
- (2) For the purposes of this Part of this Act, a service is a service qualifying for fuel duty grant at any time when fuel used in operating the service falls to be taken into account for the purpose of calculating grant payable to the operator of the service under section 92 of the Finance Act 1965 (grants to operators of bus services towards duty charged on bus fuel).