



Transport Act 1985

1985 CHAPTER 67

PART V

FINANCIAL PROVISIONS

Expenditure on public passenger transport services

91 Exceptions from section 89.

[^{F1}(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.

Changes to legislation: Transport Act 1985, Section 91 is up to date with all changes known to be in force on or before 09 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (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 section (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.]

Textual Amendments

- F1** S. 91 repealed (S.) (1.4.2003) by Local Government in [Scotland Act 2003 \(asp 1\)](#), **ss. 60(3)(c)**, 62(2); [S.S.I. 2003/134](#), **art. 2(1)**, Sch.

Modifications etc. (not altering text)

- C1** [Pt. 5](#): functions made exercisable (E.) (28.2.2024) by [The East Midlands Combined County Authority Regulations 2024 \(S.I. 2024/232\)](#), regs. 1(2), **14(1)**
- C2** [Ss. 88-92](#): functions made exercisable concurrently (E.) (28.2.2024) by [The East Midlands Combined County Authority Regulations 2024 \(S.I. 2024/232\)](#), regs. 1(2), **14(4)**
- C3** [S. 91\(3\)\(4\)](#) excluded (E.) (11.1.2010) by [The Quality Contracts Schemes \(Tendering Requirements\) \(England\) Regulations 2009 \(S.I. 2009/3244\)](#), regs. 1(1), **4(1)** (with reg. 9)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 6(2ZA) inserted by [2019 asp 17 s. 37\(2\)\(a\)](#)
- s. 6(7ZA) inserted by [2019 asp 17 s. 37\(2\)\(b\)](#)