



Local Transport Act 2008

2008 CHAPTER 26

PART 3

BUS SERVICES

VALID FROM 09/02/2009

Quality partnership schemes

13 Quality partnership schemes

- (1) Section 114 of the TA 2000 (quality partnership schemes) is amended as follows.
- (2) In subsection (1), for the words from “will to any extent” to the end (which make it a condition that a scheme implement the policies in the authority's bus strategy) substitute “ will contribute to the implementation of their local transport policies ”.
- (3) For subsection (3)(a) (authority must be satisfied that scheme will improve quality of local services) substitute—
 - “(a) bring benefits to persons using local services in the whole or any part of their area, or combined area, by improving the quality of those services, or”.
- (4) After subsection (3) insert—
 - “(3A) If the authority or authorities consider that it is necessary or expedient for any restrictions to be imposed on the registration of—
 - (a) any local services, or
 - (b) any local services of a particular description,they may impose those restrictions (“registration restrictions”) by specifying or describing them in the scheme.

Status: Point in time view as at 26/11/2008. This version of this part contains provisions that are not valid for this point in time.

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(3B) Any restrictions so imposed must be for the purpose of preventing or restricting—

- (a) the provision of local services, or
- (b) the variation or withdrawal of local services,

in cases where the authority or authorities consider that any such provision, or (as the case may be) variation or withdrawal, of services might be detrimental to the provision of services under the scheme.

(3C) Where a scheme includes any registration restrictions by virtue of subsection (3A), it must also specify the criteria (“registration criteria”) by reference to which the traffic commissioners are to decide whether or not to accept an application for registration.

(3D) In subsections (3A) to (3C) “registration”, in relation to any service,—

- (a) means registration of prescribed particulars of the service under section 6 of the Transport Act 1985 (registration of local services), and
- (b) includes a reference to the variation or cancellation of any such registration.”.

(5) For subsection (6) substitute—

“(6) The standard of services which may be specified in a scheme includes—

- (a) requirements which the vehicles being used to provide the services must meet, and
- (b) requirements as to frequency or timing of the services,

but the specification of any such requirements is not to prevent operators from providing services in excess of those requirements.”.

(6) After subsection (6) insert—

“(6A) The standard of services which may be specified in a scheme may also include requirements as to the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions, on services to which the scheme applies.

(6B) A scheme may include a requirement falling within subsection (6)(b) or (6A) only if there are no admissible objections to the requirement from relevant operators.

Section 122(3) to (5) makes further provision with respect to such schemes.”.

(7) After subsection (6B) insert—

“(6C) The power to make a quality partnership scheme includes power to provide for different facilities, or different standards of services, to be provided under the scheme as from different dates after the scheme comes into operation.”.

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VALID FROM 06/04/2009

14 Notice and consultation requirements

- (1) Section 115 of the TA 2000 (notice and consultation requirements) is amended as follows.
- (2) In subsection (2) (contents of notice etc) after “details of the facilities and standards of services” insert “, and of any registration restrictions and registration criteria,”.
- (3) In subsection (4) (meaning of “relevant local authorities” for purposes of consultation) for paragraph (b) substitute—
“(b) district councils in England,”.

VALID FROM 06/04/2009

15 Making a scheme: different dates for different facilities or standards etc

- (1) Section 116 of the TA 2000 (making of scheme) is amended as follows.
- (2) In subsection (2) (contents of scheme) after “The scheme must specify” insert “each of the following”.
- (3) After paragraph (b) of that subsection (standards of service) insert—
“(bb) any registration restrictions imposed by it and any registration criteria specified in it,”.
- (4) After paragraph (d) of that subsection (duration of scheme) insert—
“(e) if any facilities or standards of services are to be provided under the scheme as from a date after the scheme comes into operation, the date as from which they are to be so provided.”.
- (5) For subsections (4) and (5) (earliest date on which scheme may come into operation) substitute—
“(4) The date as from which any particular facilities, or any services of a particular standard, are to be provided must not be earlier than—
 - (a) in the case of facilities, the latest of dates A to C (see subsections (4B) to (4D)),
 - (b) in the case of services, the later of dates A and D (see subsections (4B) and (4E)),unless the case falls within subsection (4A).
- (4A) If under the scheme—
 - (a) particular facilities are to be provided by the authority or authorities, and
 - (b) as from the date by which the facilities are to be provided, services of a particular standard are to be provided by operators of local services when using the facilities,the date as from which the facilities and the services are to be provided must not be earlier than the latest of dates A to D.

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(4B) Date A is the date 3 months after the date on which the scheme is made.

(4C) Date B is the date by which, in the opinion of the authority or authorities, it will be reasonably practicable for the authority or authorities to provide the facilities.

(4D) Date C is the date 3 months after—

- (a) the date on which any traffic regulation order required for the provision of any of the facilities is made, or
- (b) if more than one such order is required for their provision, the date on which the last of them is made.

(4E) Date D is the date by which, in the opinion of the authority or authorities, it will be reasonably practicable for operators of local services to provide services of the particular standard.”.

(6) In section 162(4) of that Act (interpretation of references to authorities) for the entry relating to section 116 substitute— “ section 116(2)(a), (4)(a), (4A)(a) and, in the second place, (4C), ”.

VALID FROM 06/04/2009

16 Postponement of provision of particular facilities or standards of service

(1) In section 117 of the TA 2000 (postponement, for up to 12 months, of date on which scheme comes into operation) for subsection (1) substitute—

“(1) If it appears to the authority or authorities appropriate to do so, they may decide that any of the dates specified in subsection (1A) shall be postponed by such period as they think fit.

A date may not be postponed under this subsection by a period or periods which in total exceed 12 months.

(1A) The dates are—

- (a) the date on which the scheme is to come into operation,
- (b) the date as from which any particular facilities are to be provided under the scheme,
- (c) the date as from which any particular services are to be provided to a particular standard under the scheme.”.

(2) In consequence of the amendment made by subsection (1), the heading to the section becomes “ Postponement of scheme or of provision of particular facilities or standards of service ”.

VALID FROM 06/04/2009

17 Effect of scheme: different dates for different facilities or standards etc

(1) Section 118 of the TA 2000 (effect of scheme) is amended as follows.

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(2) For subsection (1) (facilities to be provided from date on which scheme comes into operation) substitute—

“(1) The authority or authorities must—

- (a) provide each of the specified facilities not later than the date specified for its provision under the scheme, and
- (b) continue to provide it throughout the remainder of the period for which the scheme is in operation.”.

(3) In subsection (4)(a) (operator of local services to give written undertaking to traffic commissioner) for the words from “that he will” to “when using the facilities” substitute “ that, when using the facilities on any date, he will provide the service to the standard specified in the scheme as it has effect in relation to that date ”.

VALID FROM 06/04/2009

18 Regulations about schemes which specify frequencies, timings or fares

(1) Section 122 of the TA 2000 (regulations about schemes) is amended as follows.

(2) In subsection (1) after paragraph (a) insert—

“(aa) the content or operation of schemes which include a requirement falling within section 114(6)(b) or (6A),”.

(3) After subsection (2) insert—

“(3) As regards schemes which include any requirement mentioned in section 114(6)(b) or (6A), regulations under subsection (1)(a) or (aa) may in particular make provision—

- (a) for section 114(6B) not to apply in such circumstances as may be prescribed,
- (b) requiring such schemes to include provision falling within subsection (4),
- (c) for any requirement as to frequencies, timings or maximum fares to be revised only if there are no admissible objections to the revision from relevant operators,
- (d) in prescribed circumstances where such schemes, or any provisions of such schemes, are subject to postponement under section 117, for any such requirement not to take effect unless prescribed conditions are satisfied,
- (e) as to the meaning of “admissible objection” for the purposes of section 114(6B) and paragraph (c) of this subsection,
- (f) as to the meaning of “relevant operator” for those purposes,
- (g) as to the determination of any question whether an objection is an admissible objection or an operator is a relevant operator.

(4) The provision referred to in subsection (3)(b) is provision—

- (a) as respects the setting of frequencies, timings or maximum fares to which the requirements relate,

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- (b) for a minimum interval before any requirements as to frequencies, timings or maximum fares may next be reviewed,
 - (c) for a maximum interval before any such requirements must next be reviewed,
 - (d) as respects other circumstances in which any such requirements must or may be reviewed,
 - (e) as respects revision of any such requirements after a review.
- (5) Subsections (3)(b) and (4) have effect subject to, and in accordance with, the following provisions—
- (a) the revision of requirements as to frequencies, timings or maximum fares under any provision made in accordance with those subsections is not to be regarded as a variation of the scheme for the purposes of section 120 (variation or revocation of scheme), but
 - (b) nothing in those subsections or in paragraph (a) of this subsection shall be taken to derogate from what may be done under or by virtue of that section.
- (6) The provision that may be made by virtue of subsection (3)(g) includes provision for and in connection with—
- (a) the appointment of a person (“an adjudicator”) to make such a determination as is mentioned in that paragraph;
 - (b) the appointment of a person (“an assessor”) to assist an adjudicator in considering any question which appears to arise in relation to such a determination;
 - (c) the payment—
 - (i) by the appropriate national authority to an adjudicator, or
 - (ii) by the appropriate national authority or an adjudicator to an assessor,
 of such remuneration as may be determined by or in accordance with the regulations.”.

VALID FROM 11/01/2010

Quality contracts schemes

19 Quality contracts schemes

- (1) Section 124 of the TA 2000 (bus services: quality contracts schemes) is amended as follows.
- (2) In subsection (1) (power of local transport authorities etc to make quality contracts schemes if satisfied it is the only way to implement policies in their bus strategies and it is economic etc) for paragraphs (a) and (b) substitute—
- “(a) the proposed scheme will result in an increase in the use of bus services (see subsection (9B)) in the area to which the proposed scheme relates,

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- (b) the proposed scheme will bring benefits to persons using local services in the area to which the proposed scheme relates, by improving the quality of those services,
 - (c) the proposed scheme will contribute to the implementation of the local transport policies of the authority or authorities,
 - (d) the proposed scheme will contribute to the implementation of those policies in a way which is economic, efficient and effective, and
 - (e) any adverse effects of the proposed scheme on operators will be proportionate to the improvement in the well-being of persons living or working in the area to which the proposed scheme relates and, in particular, to the achievement of the objectives mentioned in paragraphs (a) to (d).”
- (3) For subsection (2) (need to comply with notice and consultation requirements and obtain approval of appropriate national authority) substitute—
- “(2) A quality contracts scheme may not be made unless the authority or authorities—
- (a) have complied with the requirements of section 125,
 - (b) in the case of a scheme for an area in Wales, have obtained the approval of the Welsh Ministers in accordance with section 126, and
 - (c) in the case of a scheme for an area in England, meet the requirements of subsection (2A).
- (2A) The requirements are that the authority or authorities—
- (a) have published under section 126C(5) the request which they sent to the QCS board under section 126C(4), and
 - (b) publish, in accordance with section 127(1A), a response prepared by them to the report published by the QCS board under section 126D(5) in relation to the scheme.”

(4) In subsection (3)(b) (under quality contracts scheme local services to be provided only under quality contracts) after “section 127(4)” insert “ and section 132C ”.

(5) After subsection (9) insert—

“(9A) The power to make a scheme jointly may be exercised only if—

 - (a) all the authorities are local transport authorities for areas in England, or
 - (b) all the authorities are local transport authorities for areas in Wales.”

(6) After subsection (9A) insert—

“(9B) The reference in subsection (1)(a) to increasing the use of bus services includes a reference to reducing, arresting or reversing decline in the use of bus services.”.

20 Notice and consultation requirements

- (1) Section 125 of the TA 2000 (notice and consultation requirements) is amended as follows.

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- (2) In subsection (1) for the words from “they must give notice” to the end (which require the authority to give notice of the proposed scheme in a local newspaper) substitute “they must—
- (a) publish, in such manner as they think fit, a consultation document complying with subsection (1A),
 - (b) supply a copy of that document to each of the persons mentioned in subsection (3),
 - (c) give notice in accordance with subsection (2) of the proposed scheme in at least one newspaper circulating in the area to which it relates, and
 - (d) if the proposed scheme relates to an area in England, send a copy of that notice to the senior traffic commissioner as soon as reasonably practicable after its publication.”.
- (3) After subsection (1) insert—
- “(1A) The consultation document mentioned in subsection (1)(a) must include—
- (a) a description of the proposed scheme;
 - (b) a statement of the reasons why the authority or authorities are satisfied that the conditions in subsection (1) or, as the case may be, (1A) of section 124 are met;
 - (c) a description of any arrangements which the authority or authorities intend to make (including arrangements with other authorities or other persons) for or in connection with the implementation of the scheme;
 - (d) a statement of how any costs which the authority or authorities expect to incur under the scheme are to be defrayed;
 - (e) a declaration by the chief finance officer or officers of the authority or authorities that, after taking into account—
 - (i) any estimated income from fares, and
 - (ii) any grants from Ministers of the Crown or government departments,
 any remaining funding required to implement the scheme can be provided from other resources available to the authority or authorities;
 - (f) the date by which any written responses to the consultation must be submitted to the authority or authorities.
- (1B) The description of the proposed scheme contained in the consultation document in accordance with subsection (1A)(a) must include—
- (a) an outline of the local services which are proposed to be provided under it;
 - (b) a statement of any proposed exclusions from the scheme by virtue of section 127(4).
- (1C) In subsection (1A)(e) “chief finance officer”, in relation to a local transport authority, means that officer of the authority who is responsible under—
- (a) section 151 of the Local Government Act 1972, or
 - (b) section 73 of the Local Government Act 1985,

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for making arrangements for the proper administration of the financial affairs of the authority.”.

- (4) In subsection (2) (contents of notice)—
- (a) at the end of paragraph (a) insert “ and ”;
 - (b) in paragraph (b) after “a copy of the scheme” insert “ and the consultation document ”;
 - (c) omit paragraph (c) and the word “and” preceding it.
- (5) In subsection (3) (consultees) at the beginning of paragraph (e) (traffic commissioners for the area of the scheme) insert “ if the proposed scheme relates to an area in Wales, ”.

QCS boards for England and approval by Welsh Ministers in Wales

VALID FROM 11/01/2010

21 Approval of proposed schemes: required for areas in Wales only

- (1) Section 126 of the TA 2000 (approval of proposed scheme) is amended as follows.
- (2) Before subsection (1) insert—
- “(A1) This section has effect in any case where the scheme or proposed scheme relates to an area in Wales.”.
- (3) In subsection (1) (which refers to compliance with section 125) after “complied with” insert “ the requirements of ”.
- (4) In subsection (3) (right of person consulted under section 125(3) to make representations) for “consulted” substitute “ who was consulted, or who is aggrieved at not being consulted, ”.
- (5) In subsection (4)(a)—
- (a) for “paragraphs (a) and (b)” substitute “ paragraphs (a) to (e) ”, and
 - (b) omit “or (as the case may be) paragraphs (a) to (d) of section 124(1A)”.
- (6) The heading to the section accordingly becomes “ Approval of proposed schemes for areas in Wales ”.

VALID FROM 11/01/2010

22 Boards for proposed schemes for areas in England

- (1) After section 126 of the TA 2000 (approval of proposed scheme) insert—

“126A Boards for proposed schemes for areas in England

- (1) Where the senior traffic commissioner receives a copy of a notice sent by the authority or authorities pursuant to section 125(1)(d), a board (a “QCS

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board”) is to be constituted in accordance with the provisions of this Part to discharge the functions of such a board in relation to the proposed scheme.

- (2) The board is to consist of 3 members.
- (3) The members shall be—
 - (a) one traffic commissioner (“the Commissioner”),
 - (b) two persons drawn from a panel of persons appointed by the Secretary of State for the purposes of this section.
- (4) The Commissioner is to chair the board.
- (5) Within a prescribed period of receiving the copy of the notice mentioned in subsection (1), the senior traffic commissioner is to—
 - (a) designate the traffic commissioner who is to be the Commissioner in the case of the particular board,
 - (b) give notice of that designation to the authority or authorities, in accordance with the prescribed procedure, identifying the person designated,
 - (c) publish, in such manner as may be prescribed, notice of the designation, identifying the person designated.
- (6) The traffic commissioner who is to be so designated is that one of the traffic commissioners whom the senior traffic commissioner considers most appropriate in all the circumstances of the particular case by reason of any particular knowledge or experience that the traffic commissioner may have.

This is subject to subsections (7) and (8).
- (7) If the senior traffic commissioner considers that the traffic commissioner who would otherwise fall to be designated to be the Commissioner ought not to be so designated—
 - (a) because of the traffic commissioner's illness, incapacity, absence or impending vacation of office, or
 - (b) because the traffic commissioner is prevented from being the Commissioner by subsection (8),the senior traffic commissioner is to designate a different traffic commissioner to be the Commissioner.
- (8) A traffic commissioner whose ability to act impartially in the case of any particular scheme is, in the opinion of that traffic commissioner, in any way impaired must not act as the Commissioner in relation to that scheme.
- (9) If the senior traffic commissioner is unable to discharge the duty to make a designation under subsection (5), the duties of the senior traffic commissioner under that subsection are to be discharged by the Secretary of State instead.
- (10) The persons who are to be members of the board by virtue of subsection (3) (b) are to be designated in such manner and at such time as may be prescribed.
- (11) The Secretary of State shall pay to each person appointed under subsection (3)(b) such remuneration in respect of the person's services as may be determined by the Secretary of State with the consent of the Treasury.

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(12) In this section “prescribed” means prescribed in regulations under section 126E or 133.”.

(2) In section 162 of the TA 2000 (interpretation of Part 2) insert the following definition at the appropriate place in subsection (1)—

““QCS board” is to be read in accordance with section 126A(1),”.

23 Advice by boards or their Commissioners

After section 126A insert—

“126B Advice by boards or their Commissioners

- (1) This section applies at any time after the traffic commissioner who is to chair the QCS board for the proposed scheme has been designated under section 126A.
- (2) The QCS board may give advice about matters of a procedural nature to any person who requests it before the end of the appropriate period.
- (3) For the purposes of subsection (2), the end of the appropriate period is—
 - (a) the date on which a scheme is made, or
 - (b) if no scheme is made, the date on which the authority or authorities give notice to the board under section 126C(7) that they have decided not to proceed with the proposed scheme.
- (4) The board may not, under subsection (2), give advice about the merits of the proposed scheme.
- (5) If the Secretary of State thinks it appropriate to do so in connection with securing propriety in the giving of advice under subsection (2), the Secretary of State may by regulations make provision about the giving of advice under that subsection (but not about what the advice is to be).
- (6) In particular, regulations under subsection (5) may make provision that has the effect that—
 - (a) a person's request for advice under subsection (2), or
 - (b) advice given under subsection (2) to a person,must be, or may be, disclosed by the board to persons other than that person or to the public generally.
- (7) In relation to requests received at any time before the members of the board have been designated, the functions of the board under this section are exercisable on behalf of the board by the traffic commissioner who has been designated to chair the board.”.

Commencement Information

II S. 23 partly in force; s. 23 in force at Royal Assent for specified purposes, see s. 134(1)(c)

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24 Consideration of proposed schemes by boards

After section 126B insert—

“126C Requests for boards to begin consideration etc of proposed schemes

- (1) This section applies in any case where—
 - (a) the proposed scheme is for an area in England, and
 - (b) the authority or authorities have complied with the requirements of section 125(1) to (3).
- (2) If the authority or authorities wish to proceed with the proposed scheme, they must send each of the following to the QCS board as soon as reasonably practicable after the end of the consultation period—
 - (a) copies of all written responses received from the persons consulted,
 - (b) information about representations made orally at meetings or other events held by the authority or authorities during the consultation period,
 - (c) a summary of the action which the authority or authorities have taken to comply with the requirements of section 125(1) to (3).
- (3) The authority or authorities must have complied with subsection (2) before they send the board a request under subsection (4).
- (4) When the authority or authorities consider it appropriate to do so, they are to send to the board a written request for it to begin the performance of its functions under section 126D in relation to the proposed scheme.
- (5) If the authority or authorities send the board a request under subsection (4), they must also—
 - (a) publish the request,
 - (b) send to the board a copy of the proposed scheme that it is to consider under section 126D,
 - (c) if the proposed scheme mentioned in section 125(2) differs from the proposed scheme mentioned in paragraph (b), publish a notice stating where a copy of the proposed scheme mentioned in paragraph (b) may be inspected.
- (6) If, following the sending of a request under subsection (4), the authority or authorities—
 - (a) modify the proposed scheme under section 125(5) or section 126D(7), and
 - (b) desire the QCS board to exercise its functions under section 126D in relation to the proposed scheme, as modified,
 they may send the board a further request under subsection (4).
- (7) If at any time the authority or authorities decide not to proceed with the proposed scheme, they must—

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- (a) give written notice of that decision to the QCS board, and
- (b) publish notice that they have done so.

126D Consideration of proposed schemes by boards

- (1) Following receipt of a request from the authority or authorities under section 126C(4), the QCS board is to consider the proposed scheme and—
 - (a) form an opinion whether the conditions set out in the paragraphs of section 124(1) or, as the case may be, of section 124(1A) are met in the case of the proposed scheme;
 - (b) form an opinion whether the authority or authorities have complied with the requirements of section 125(1) to (3).
- (2) If the board is of the opinion that the conditions mentioned in subsection (1) (a) are not met, it may make recommendations as to actions that the authority or authorities might take in response to that opinion.
- (3) If the board is of the opinion that the authority or authorities have not complied with the requirements of section 125(1) to (3), it may make recommendations as to actions that the authority or authorities might take in response to that opinion.
- (4) If, in performing its functions under subsection (1)(b), the board is of the opinion that any person who was not consulted under section 125(3) ought to have been so consulted, that person has—
 - (a) the rights of appeal under section 127A that are conferred by virtue of subsection (3)(b) of that section, or
 - (b) in a case where this section applies by virtue of section 131C(3) (non-exempt proposal to continue scheme), the rights of appeal under section 131F that are conferred by virtue of subsection (3)(b) of that section.
- (5) The board is to give notice to the authority or authorities of—
 - (a) the opinions that it has formed on the questions in paragraphs (a) and (b) of subsection (1),
 - (b) any recommendations that it makes under subsection (2) or (3),
 - (c) its reasons for forming those opinions and making any such recommendations,and is to publish a report stating those opinions, recommendations and reasons.
- (6) If, in a case where the board makes recommendations under subsection (3), the authority or authorities take the action recommended by the board and publish notice that they have done so, this Part has effect as if—
 - (a) the authority or authorities had complied with the requirements of section 125(1) to (3) to which the recommendations relate, and
 - (b) the opinion formed by the board on the question in subsection (1) (b) had included (and had been stated in the report as including) the opinion that the authority or authorities had complied with those requirements.
- (7) Following receipt of the notice under subsection (5), the authority or authorities may modify the proposed scheme.

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- (8) If the authority or authorities—
- (a) modify the proposed scheme by virtue of subsection (7) or section 125(5), and
 - (b) send the board a request under section 126C(4) by virtue of section 126C(6),
- this section has effect with such modifications or exclusions as may be prescribed by regulations under section 126E or 133.”.

25 Practice and procedure of boards

After section 126D of the TA 2000 insert—

“126E Practice and procedure of boards

- (1) The Secretary of State may make regulations—
 - (a) with respect to the constitution of a QCS board,
 - (b) with respect to the powers and duties of any such board,
 - (c) governing the practice and procedure to be followed by any such board, and
 - (d) generally for the carrying into effect of the powers and duties of any such board.
- (2) The provision that may be made by regulations under subsection (1) includes—
 - (a) provision about requests under section 126C(4);
 - (b) provision for an acknowledgement of the receipt of any such request to be issued by such person, and within such time, as may be prescribed in the regulations;
 - (c) the procedure to be followed in cases where a further request under section 126C(4) is sent to the QCS board by virtue of section 126C(6) in relation to a proposed scheme which has been modified (the “modified scheme”);
 - (d) provision for or in connection with the making of representations about the modified scheme;
 - (e) the publication by the board of provisional findings before it publishes its report.
- (3) Regulations may prescribe the time within which the Secretary of State considers that any QCS board should normally have published its report.
- (4) It is the duty of a QCS board to take all reasonable steps to publish its report within that time.
- (5) If a QCS board does not publish its report within that time, the Commissioner must immediately prepare a statement of—
 - (a) the reasons why the board has not published its report within that time;
 - (b) the action the board is taking to publish its report as soon as reasonably practicable;
 - (c) the time within which it is expected that the board will publish its report.

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- (6) As soon as reasonably practicable after the statement required by subsection (5) has been prepared, the Commissioner must send a copy of it to each of the following—
- (a) the Secretary of State;
 - (b) the authority or authorities proposing to make the scheme.
- (7) The Secretary of State may issue guidance concerning the carrying out by a QCS board of its functions under this Part in relation to quality contracts schemes.
- (8) A QCS board must have regard to any such guidance.
- (9) In this section—
- “the Commissioner” has the same meaning as in section 126A;
 - “regulations” means regulations made by the Secretary of State;
 - “report” means the report which the board is required to publish by virtue of section 126D(5).”.

Commencement Information

I2 S. 25 partly in force; s. 25 in force at Royal Assent for specified purposes, see s. 134(1)(c)

Making and duration of quality contracts schemes

26 Making of scheme

- (1) Section 127 of the TA 2000 (making of scheme) is amended as follows.
- (2) For subsection (1) (making of scheme to be not later than 6 months after approval by appropriate national authority) substitute—
- “(1) The authority or authorities who proposed the scheme may make it—
- (a) in the case of a scheme for an area in England, in accordance with the requirements of subsection (1A);
 - (b) in the case of a scheme for an area in Wales, in accordance with the requirements of subsection (1B).
- (1A) If the scheme is for an area in England, the authority or authorities who proposed it—
- (a) must not make the scheme until they publish a response prepared by them to the report published by the QCS board under section 126D(5) in relation to the scheme, but
 - (b) subject to that, may make the scheme at any time not later than 6 months after the publication of that report.
- Any such response must state the actions (if any) which the authority or authorities have taken in relation to each of the board's recommendations (if any) under section 126D(2) or (3).
- (1B) If—
- (a) the scheme is for an area in Wales, and

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- (b) the Welsh Ministers approve the scheme under section 126, the authority or authorities who proposed it may make it, as approved, at any time not later than 6 months after the date of the approval.”.
- (3) In subsection (2) (what the scheme must specify) for paragraph (b) (date on which scheme comes into operation etc) substitute—
- “(b) the date on which it is to come into operation or, if the scheme provides for different provisions to come into operation on different dates, or on different dates for different purposes, those dates in the case of each provision, and”.
- (4) In subsection (2), in paragraph (c) (maximum period for which scheme to remain in operation) after “ten years” insert “ from the earliest date on which the scheme or any of its provisions comes into operation. ”.
- (5) After subsection (2) insert—
- “(2A) No date that is to be specified under subsection (2)(b) may be earlier than 6 months after the scheme is made.”.
- (6) After subsection (3) insert—
- “(3A) The scheme must specify the date or dates on which it is proposed that the authority or authorities will issue invitations to tender for the provision of any services to which the scheme relates (see section 130).”.
- (7) In subsection (9) (contents of notice under subsection (8)) for paragraph (c) (date on which scheme comes into operation) substitute—
- “(c) the date or dates on which the scheme, or the different provisions of the scheme, are to come into operation.”.
- (8) For subsection (10) (power by order to vary the period mentioned in subsection (2)(b)) substitute—
- “(10) The appropriate national authority may by order vary any of the periods mentioned in subsection (1A), (1B) or (2A).”.
- (9) In section 162(4) of the TA 2000 (provisions where references to Passenger Transport Authorities or Integrated Transport Authorities are to be read as references to Passenger Transport Executives) insert at the appropriate place in the list of provisions — “ section 127(3A), ”.

Commencement Information

I3 S. 26 partly in force; s. 26(8) in force at Royal Assent for specified purposes, see s. 134(1)(c)

VALID FROM 11/01/2010

27 Appeals against the making of schemes for areas in England

- (1) After section 127 of the TA 2000 insert—

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“127A Appeals against the making of schemes for areas in England

- (1) This section applies where an authority or authorities make a quality contracts scheme for an area in England.
- (2) Any person falling within subsection (3) may appeal to the Transport Tribunal against the decision of the authority or authorities to make the scheme.
- (3) The persons are—
 - (a) any person who was consulted under section 125(3),
 - (b) any person who was not consulted under section 125(3) but who, in the opinion of the QCS board under section 126D(1)(b), ought to have been so consulted.
- (4) An appeal under this section may be—
 - (a) on a point of law, or
 - (b) on a question of fact, unless subsection (5) prevents it.
- (5) No appeal lies under this section on a question of fact (and no question of fact is to be entertained by the Tribunal on an appeal under this section) in any case where subsection (6) applies.
- (6) This subsection applies if the QCS board stated in its report under section 126D(5) that it is of the opinion—
 - (a) that the conditions in the paragraphs of section 124(1) or, as the case may be, of section 124(1A) are met, and
 - (b) that the authority or authorities have complied with the requirements of section 125(1) to (3) (or are by virtue of section 126D(6) to be taken to have complied with those requirements by virtue of having taken any action recommended by the board in any previous reports),and if the scheme, as made, corresponds to the proposed scheme to which that report relates.
- (7) The authority or authorities may issue invitations to tender in accordance with section 130(1) notwithstanding the lodging of any appeal under or by virtue of this section.

127B Powers of the Transport Tribunal on an appeal under section 127A

- (1) On an appeal under section 127A the Transport Tribunal shall have power—
 - (a) to make such order as they think fit, or
 - (b) to remit any matter (with or without directions) to the authority or authorities for their consideration or determination or for such other purposes as the Tribunal may direct.
- (2) The powers of the Tribunal on an appeal under section 127A include power to do any one or more of the following—
 - (a) dismiss the appeal in whole or in part,

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- (b) remit the matter to the authority or authorities with one or more directions under subsection (3),
 - (c) direct the authority or authorities to vary the scheme in such manner as the Tribunal may specify in the direction (but see subsection (4)),
 - (d) quash the decision of the authority or authorities (but see subsection (5)).
- (3) A direction under this subsection is a direction for the authority or authorities to do each of the following—
- (a) consider or reconsider such matters as may be specified in the direction,
 - (b) consult or further consult as respects those matters in such manner as may be specified in the direction,
 - (c) vary the scheme in such respects as may in consequence appear appropriate to the authority or authorities.
- (4) The Tribunal may give a direction under this section to vary the scheme by reducing the area to which the scheme relates only if they are of the opinion that the conditions in section 132(3) are met.
- (5) The power of the Tribunal under this section to quash the decision of the authority or authorities is exercisable only if the Tribunal are of the opinion that there are defects in the scheme which are not capable of being remedied by varying the scheme under or by virtue of subsection (2)(b) or (c).
- (6) Where, on an appeal under section 127A, the Tribunal exercises any power falling within paragraph (b) of subsection (2) above, the only further appeal allowed under that section is an appeal against a decision of the authority or authorities to vary, or not to vary, the scheme by virtue of subsection (3)(c).”
- (2) In section 162(4) of the TA 2000 (provisions where references to Passenger Transport Authorities or Integrated Transport Authorities are to be read as references to Passenger Transport Executives) insert at the appropriate place in the list of provisions— “ section 127A(7), ”.

VALID FROM 11/01/2010

28 Postponement of scheme in part

In section 128 of the TA 2000 (postponement of scheme) in subsection (1)—

- (a) after “the scheme”, in the second place where those words occur, insert “ , or any particular provision of the scheme, ”;
- (b) after “would otherwise come into operation” insert “ , or come into operation for any particular purpose or purposes, ”.

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VALID FROM 11/01/2010

29 Effect of scheme: different operational dates and excepted services

- (1) Section 129 of the TA 2000 (effect of scheme) is amended as follows.
- (2) In subsection (1) (consequences for period during which scheme is in operation)—
 - (a) after “the scheme” insert “, or (in the case of a scheme which provides for different provisions to come into operation on different dates) any provision of the scheme,”;
 - (b) in paragraph (a), for “the area to which it relates” substitute “ the area to which the scheme, or that provision, relates ”;
 - (c) in paragraph (b), after “under a quality contract” insert “ or is an interim service (see section 132C) ”.
- (3) In subsection (2) (exception for services excluded from the scheme by virtue of section 127(4)) after “But subsection (1) does not apply” insert “—
 - (a) so as to prevent the application of sections 6 to 9 of the Transport Act 1985 in relation to any service by virtue or in consequence of section 6B of that Act (application for registration or variation where quality contracts scheme in force),
 - (b) so as to prevent the provision of any service registered under section 6 of the Transport Act 1985 by virtue of section 6B of that Act, or
 - (c) ”.
- (4) Subsection (4) (tenders to be invited not later than 3 months after the scheme has been made) shall cease to have effect.

VALID FROM 11/01/2010

30 Extension of maximum period of quality contracts

- (1) Section 130 of the TA 2000 (tendering for quality contracts) is amended as follows.
- (2) In subsection (1) (authority to tender for provision of services) after “services to which the scheme” insert “, or each provision of the scheme,”.
- (3) In subsection (2) (period of contract not to exceed five years) for “five” substitute “ 10 ”.

Continuation of quality contracts schemes

VALID FROM 11/01/2010

31 Continuation of schemes for further periods

After section 131 of the TA 2000 insert—

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“131A Continuation of schemes for further periods

- (1) If it appears to them appropriate to do so, the authority or authorities who made a quality contracts scheme (other than any to whose area the scheme no longer relates) may decide that the scheme should continue in operation for a further period, with or without modification.
- (2) Before making such a decision, they must, unless the proposal that the scheme should continue is an exempt continuation proposal (see section 131B), comply with the requirements of—
 - (a) section 124(2)(b) (approval by Welsh Ministers), if the scheme is for an area in Wales, or
 - (b) section 124(2)(c) (publication of request to, and response to report of, QCS board), if the scheme is for an area in England.
- (3) Section 125 applies in relation to the continuation of a scheme under this section as it applies in relation to the making of a scheme, but with the following modifications—
 - (a) any reference to a proposal to make a scheme is to be read as a reference to a proposal for the continuation of a scheme,
 - (b) any reference to the proposed scheme is to be read as a reference to the scheme as proposed to continue in operation,
 and with the further modifications specified in subsections (4) and (5), but this is subject to such modifications or exclusions as may be prescribed by regulations under section 133.
- (4) If the proposal is an exempt continuation proposal—
 - (a) section 125(1)(d) (duty to send copy of notice to senior traffic commissioner if scheme relates to area in England) does not apply, but
 - (b) section 125(3)(e) (duty to consult traffic commissioners for areas to which scheme relates) applies with the omission of the words “if the proposed scheme relates to an area in Wales,”.
- (5) The consultation document that is to be published by virtue of section 125(1) (a), as applied by subsection (3), must (instead of complying with section 125(1A)) include—
 - (a) a description of the scheme, together with any proposed modifications to it;
 - (b) a statement of the opinion of the authority or authorities as to the effectiveness of the scheme in achieving the objectives set out in paragraphs (a) to (e) of section 124(1) or, as the case may be, paragraphs (b) and (d) of section 124(1A) up to the date of the report;
 - (c) a statement of the reasons why they are satisfied that the scheme as proposed to be continued (with any proposed modifications) will meet the conditions in subsection (1) or, as the case may be, (1A) of section 124;
 - (d) a description of any arrangements which the authority or authorities intend to make (including arrangements with other authorities or

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- other persons) for or in connection with the continuation of the scheme;
- (e) a statement of the period for which it is proposed that the scheme should continue in operation, which must not be more than a further 10 years;
 - (f) if the authority or authorities consider that the proposal for the scheme to continue is an exempt continuation proposal, a statement of that fact;
 - (g) a statement of how any costs which the authority or authorities expect to incur under the scheme are to be defrayed;
 - (h) a declaration by the chief finance officer or officers of the authority or authorities that, after taking into account—
 - (i) any estimated income from fares, and
 - (ii) any grants from Ministers of the Crown or government departments,any remaining funding required to continue the scheme in operation can be provided from other resources available to the authority or authorities;
 - (i) the date by which any written responses to the consultation must be submitted to the authority or authorities.
- (6) For the purposes of this section—
- (a) subsection (1B) of section 125 (matters to be included in the description of the proposed scheme) applies for the purposes of subsection (5)(a) as it applies for the purposes of subsection (1A)(a) of that section, and
 - (b) subsection (1C) of that section (meaning of “chief finance officer”) applies for the purposes of subsection (5)(h) as it applies for the purposes of subsection (1A)(e) of that section.
- (7) The consultation document mentioned in subsection (5) must be published and supplied in accordance with section 125(1)(a) and (b) (as applied by this section) not less than 12 months before the scheme's expiry date.
- (8) For the purposes of this section, a scheme's “expiry date” is the later of the following dates—
- (a) the end of the period specified in the scheme in accordance with section 127(2)(c),
 - (b) if the scheme has been continuing in operation by virtue of the previous application of this section, the end of the period for which it is so continuing in operation.
- (9) The period for which a scheme continues in operation by virtue of a decision under subsection (1) may begin—
- (a) on such day falling before, on, or immediately after the scheme's expiry date as the authority or authorities decide, or
 - (b) if the circumstances are such that the continuation of the scheme cannot begin on a day falling within paragraph (a), on such later day as the authority or authorities decide in accordance with regulations made by the appropriate national authority for the purposes of such circumstances.

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- (10) If the authority or authorities publish and supply a consultation document in accordance with subsection (7), the scheme remains in operation (without any modifications proposed by them under subsection (1)) until—
- (a) in a case where the scheme is to continue in operation for a further period, the day before the beginning of that period, or
 - (b) in any other case, the scheme's expiry date.
- (11) Section 130 (tendering) applies to a scheme that continues in operation under this section (whether or not the proposal for the scheme to continue in operation was an exempt continuation proposal) but subject to regulations made by the appropriate national authority under section 133(3).”.

VALID FROM 11/01/2010

32 Exempt continuation proposals

- (1) After section 131A of the TA 2000 insert—

“131B Meaning of “exempt continuation proposal”

- (1) For the purposes of this Part a proposal that a quality contracts scheme should continue in operation is an “exempt continuation proposal” if—
- (a) any one or more of Conditions 1 to 3 are met and Conditions A and B are met, or
 - (b) the circumstances are as prescribed in regulations made by the appropriate national authority.
- (2) Condition 1 is that it is not proposed that the area to which the continuation scheme relates is to be greater than the area to which the existing scheme relates.
- (3) Condition 2 is that it is proposed that the area to which the continuation scheme relates is to be greater than the area to which the existing scheme relates, but—
- (a) the additional area proposed to be included falls wholly within the area or combined area of the authority or authorities proposing the continuation of the scheme, and
 - (b) it is not proposed that under the continuation scheme any descriptions of local services are to be provided under quality contracts in addition to the descriptions of local services so provided under the existing scheme.
- (4) Condition 3 is that during the period while the existing scheme has been in force—
- (a) there has been a change in the area of the authority, or of any of the authorities, that last made or continued the scheme, or
 - (b) a different authority has become the local transport authority for some or all of the area to which the scheme relates,

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but it is not proposed that under the continuation scheme any descriptions of local services are to be provided under quality contracts in addition to the descriptions of local services so provided under the existing scheme.

(5) Condition A is that it is not proposed under the continuation scheme that any local services which, immediately before the coming into force of that scheme, were unregulated services are under the continuation scheme to be provided under quality contracts.

(6) Condition B is that it is not proposed under the continuation scheme that any services which, immediately before the coming into force of that scheme, were excluded services in the case of the existing scheme are not to be excluded services in the case of the continuation scheme.

(7) In this section—

“the continuation scheme” means the scheme as proposed to continue in operation;

“excluded services”, in the case of any quality contracts scheme, means any local services, or class of local services, which are excluded from the scheme by virtue of section 127(4);

“the existing scheme” means—

(a) the scheme as last continued or varied, or

(b) if the scheme has not previously been continued or varied, the scheme as originally made;

“unregulated services” means any local services provided otherwise than—

(a) under a contract with one or more local transport authorities, or

(b) by an authority or authorities acting under section 132C(2) (power to provide interim services in exceptional circumstances);

and any reference to the coming into force of a scheme includes a reference to the coming into force of any particular provision of it.

(8) See also section 131E (which makes provision about appeals relating to exempt continuation proposals).”.

(2) In section 162 of that Act (interpretation of Part 2) insert the following definition at the appropriate place in subsection (1)—

““exempt continuation proposal” is to be read in accordance with section 131B.”.

VALID FROM 11/01/2010

33 Continuation of schemes for areas in England: procedure

After section 131B of the TA 2000 insert—

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“131C Continuation of schemes for areas in England: procedure

- (1) This section has effect with respect to the continuation in operation under section 131A (or the proposed continuation in operation under that section) of a quality contracts scheme for an area in England (whether with or without modifications).
- (2) If the proposal for the continuation of the scheme—
 - (a) is an exempt continuation proposal, or
 - (b) in a case where the authority or authorities have decided that the scheme should continue, was such a proposal,
 subsections (2) and (3) to (9) of section 127 apply in relation to the continuation of the scheme as they apply in relation to the making of a scheme, but with the modifications in subsection (4).
- (3) Where subsection (2) does not apply, sections 126A to 127 apply in relation to the continuation of a scheme as they apply in relation to the making of a scheme, but with the modifications in subsection (4).
- (4) The modifications are—
 - (a) any reference to a proposal to make a scheme is to be read as a reference to a proposal for the continuation of a scheme,
 - (b) any reference to making a scheme is to be read as a reference to deciding that a scheme should continue in operation,
 - (c) any reference to the proposed scheme is to be read as a reference to the scheme as proposed to continue in operation,
 - (d) any reference to any conditions set out in any paragraphs of section 124(1) or (as the case may be) of section 124(1A) being met is to be read as a reference to those conditions being met by the scheme as proposed to continue in operation (with any proposed modifications),
 - (e) any reference to section 125 or any provision of that section is to be read as a reference to that section or provision as it has effect by virtue of section 131A,
 - (f) the references in section 127(2)(b) and (9)(c) to the date or dates on which the scheme is, or provisions of the scheme are, to come into operation are to be read as references to the day decided by the authority or authorities by virtue of section 131A(9),
 - (g) section 127 has effect with the omission of subsection (2A) (scheme not to come into operation until 6 months after making),
 but further or different modifications, or exclusions, may also be made by regulations under section 133(3)(b).
- (5) If, acting on the basis that the proposal for the continuation of the scheme is an exempt continuation proposal, the authority or authorities decide that the scheme is to continue, they must—
 - (a) publish in such manner as they think fit, and within the time allowed, a notice announcing their decision on the proposal,
 - (b) supply a copy of that notice to each of the persons mentioned in section 125(3) as it applies by virtue of section 131A in a case where the proposal is an exempt continuation proposal, and

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(c) give notice of the decision in accordance with section 127(8) and (9).

(6) For the purposes of subsection (5)(a), the time allowed is the period of 6 months following the date of publication of the consultation document required by section 125(1) as applied by section 131A.”.

VALID FROM 11/01/2010

34 Continuation of schemes for areas in Wales: procedure

After section 131C of the TA 2000 insert—

“131D Continuation of schemes for areas in Wales: procedure

- (1) This section has effect with respect to the continuation in operation under section 131A (or the proposed continuation in operation under that section) of a quality contracts scheme for an area in Wales (whether with or without modifications).
- (2) Subsections (2) and (3) to (9) of section 127 apply in relation to the continuation of the scheme as they apply in relation to the making of a scheme, but with the modifications in subsection (4).
- (3) Unless the proposal for the continuation of the scheme—
 - (a) is an exempt continuation proposal, or
 - (b) in a case where the authority or authorities have decided that the scheme should continue, was such a proposal,subsections (1)(b) and (1B) of section 127 also apply in relation to the continuation of the scheme, and with the modifications in subsection (4).
- (4) The modifications are—
 - (a) any reference to proposing to make a scheme is to be read as a reference to proposing the continuation of a scheme,
 - (b) any reference to making a scheme is to be read as a reference to deciding that a scheme should continue in operation,
 - (c) any reference to the proposed scheme is to be read as a reference to the scheme as proposed to continue in operation,
 - (d) the references in section 127(2)(b) and (9)(c) to the date or dates on which the scheme is, or provisions of the scheme are, to come into operation are to be read as references to the day decided by the authority or authorities by virtue of section 131A(9),but further or different modifications, or exclusions, may also be made by regulations under section 133(3)(b).
- (5) Subsection (6) applies in any case where—
 - (a) an authority or authorities propose that a quality contracts scheme for an area in Wales should continue in operation (with or without modification) under section 131A, and
 - (b) the proposal is not an exempt continuation proposal.

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- (6) In any such case, section 126 (approval by Welsh Ministers of proposed schemes for areas in Wales) applies in relation to a proposal for the continuation of a scheme as it applies in relation to a proposal to make a scheme, but with the modifications set out in subsection (7).
- (7) The modifications are—
- (a) any reference to a proposed scheme is to be read as a reference to a proposal for a scheme to continue in operation under section 131A;
 - (b) the reference in section 126(2)(a) to wishing to make a scheme is to be read as a reference to wishing that a scheme should continue in operation;
 - (c) any reference to any conditions set out in any paragraphs of section 124(1) being met is to be read as a reference to those conditions being met by the scheme as proposed to continue in operation (with any proposed modifications);
 - (d) any reference to section 125 or any provision of that section is to be read as a reference to that section or provision as it has effect by virtue of section 131A.
- (8) If, acting on the basis that the proposal for the continuation of the scheme is an exempt continuation proposal, the authority or authorities decide that the scheme is to continue, they must—
- (a) publish in such manner as they think fit, and within the time allowed, a notice announcing their decision on the proposal,
 - (b) supply a copy of that notice to each of the persons mentioned in section 125(3) as it applies by virtue of section 131A, and
 - (c) give notice of the decision in accordance with section 127(8) and (9).
- (9) For the purposes of subsection (8)(a), the time allowed is the period of 6 months following the date of publication of the consultation document required by section 125(1)(a) as it applies by virtue of section 131A.”

35 Appeals where proposed continuation considered exempt

After section 131D of the TA 2000 insert—

“131E Appeals where proposed continuation considered exempt

- (1) This section applies where an authority or authorities who propose that a quality contracts scheme should continue in operation (with or without modifications) under section 131A—
 - (a) decide that the proposal is an exempt continuation proposal, and
 - (b) acting on the basis of that decision, decide that the scheme should so continue in operation.
- (2) Any person falling within subsection (3) may appeal to the Transport Tribunal against—
 - (a) the decision of the authority or authorities that the proposal is an exempt continuation proposal, or

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- (b) the decision of the authority or authorities that the scheme is to continue in operation (with or without any modifications).
- (3) The persons are—
 - (a) any person who was consulted under section 125(3) (as it applies by virtue of section 131A in a case where the proposal is an exempt proposal),
 - (b) any person who was not so consulted, but who, in the opinion of the Transport Tribunal, ought to have been so consulted.
- (4) An appeal under this section may be—
 - (a) on a point of law, or
 - (b) on a question of fact.
- (5) On an appeal under this section the Transport Tribunal shall have power—
 - (a) to make such order as they think fit, or
 - (b) to remit any matter (with or without directions) to the authority or authorities for their consideration or determination or for such other purposes as the Tribunal may direct.
- (6) The powers of the Tribunal on an appeal under this section include power to do any one or more of the following—
 - (a) dismiss the appeal in whole or in part,
 - (b) remit the matter to the authority or authorities with one or more directions under subsection (7),
 - (c) direct the authority or authorities to vary the scheme, as it continues or is to continue in operation, in such manner as the Tribunal may specify in the direction (but see subsection (8)),
 - (d) quash the whole or any part of the decision of the authority or authorities (but see subsection (9)).
- (7) A direction under this subsection is a direction for the authority or authorities to do each of the following—
 - (a) consider or reconsider such matters as may be specified in the direction,
 - (b) as respects those matters, consult or further consult the persons mentioned in section 125(3) as it applies by virtue of section 131A in a case where the proposal is an exempt continuation proposal,
 - (c) make such variations of the scheme, as it continues or is to continue in operation, as may in consequence appear appropriate to the authority or authorities.
- (8) The Tribunal may give a direction under this section to vary a scheme by reducing the area to which it relates only if they are of the opinion that the conditions in section 132(3) are met.
- (9) The power of the Tribunal under this section to quash a decision of an authority or authorities that a scheme should continue in operation under section 131A is exercisable only if the Tribunal are of the opinion that there are defects in the scheme which are not capable of being remedied by varying the scheme under or by virtue of subsection (6)(b) or (c).

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- (10) If, on an appeal under paragraph (a) or (b) of subsection (2), the Tribunal decide that the proposal for the scheme to continue in operation was not an exempt continuation proposal—
- (a) they must allow the appeal to that extent,
 - (b) they must remit the matter to the authority or authorities, with or without directions, and
 - (c) subsections (11) to (14) have effect.
- (11) The directions that the Tribunal may give under this section include—
- (a) directions to take any action specified in the directions for the purpose of remedying any failure to comply with requirements of this Part that have effect where a proposal for continuation under section 131A is not an exempt continuation proposal,
 - (b) directions to make variations specified in the directions for the purpose of securing that the condition in paragraph (a) or (b) of subsection (1) of section 131B (meaning of “exempt continuation proposal”) is met in the case of the scheme,
 - (c) directions authorising the scheme to continue in operation temporarily, with or without variations, for a period specified or described in the directions, but subject to compliance with conditions as to the time within which any particular action specified in directions under this section is to be taken.
- (12) Where the Tribunal give directions falling within subsection (11), they may also make provision in the order dispensing with the need to comply with such procedural requirements imposed by or under this Part as they may specify in the order.
- (13) If the scheme or proposed scheme relates to an area in Wales, the Tribunal may not make any order which has the effect of—
- (a) giving approval under section 126 as it applies by virtue of section 131D, or
 - (b) dispensing with the need for any such approval,
- but this is without prejudice to the temporary provision that may be made in directions falling within subsection (11)(c).
- (14) The appropriate national authority may make regulations with respect to the procedure to be followed in relation to a scheme in cases where the Tribunal decide that the proposal for continuation under section 131A was not an exempt continuation proposal.”.

Commencement Information

I4 S. 35 partly in force; s. 35 in force at Royal Assent for specified purposes, see s. 134(1)(c)

VALID FROM 11/01/2010

36 Appeals where proposed continuation considered non-exempt

After section 131E of the TA 2000 insert—

Status: Point in time view as at 26/11/2008. This version of this part contains provisions that are not valid for this point in time.

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“131F Appeals where proposed continuation considered non-exempt

- (1) This section applies where an authority or authorities—
 - (a) propose that a quality contracts scheme for an area in England should continue in operation (with or without modifications) under section 131A,
 - (b) decide that the proposal is not an exempt continuation proposal, and
 - (c) acting on the basis of that decision, decide that the scheme should so continue in operation.
- (2) Any person falling within subsection (3) may appeal to the Transport Tribunal against the decision of the authority or authorities that the scheme should continue in operation.
- (3) The persons are—
 - (a) any person who was consulted under section 125(3) (as it applies by virtue of section 131A in a case where the proposal is not an exempt continuation proposal),
 - (b) any person who was not so consulted, but who, in the opinion of the QCS board under section 126D(1)(b), ought to have been so consulted.
- (4) Sections 127A(4) to (7) and 127B apply in relation to an appeal under subsection (2) as they apply in relation to an appeal under subsection (2) of section 127A, but with—
 - (a) the modifications in subsection (5), and
 - (b) such further or different modifications or exclusions as may be prescribed under section 133.
- (5) The modifications are—
 - (a) any reference to the scheme is to be read as a reference to the scheme as it continues in operation,
 - (b) any reference to the scheme as made is to be read as a reference to the scheme as it continues in operation,
 - (c) any reference to the proposed scheme is to be read as a reference to the scheme as proposed to continue in operation,
 - (d) any reference to any conditions set out in any paragraphs of section 124(1) or (as the case may be) of section 124(1A) being met is to be read as a reference to those conditions being met by the scheme as proposed to continue in operation (with any proposed modifications),
 - (e) any reference to section 125 or any provision of that section is to be read as a reference to that section or provision as it applies by virtue of section 131A in a case where the proposal is not an exempt continuation proposal.”.

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Variation or revocation of quality contracts schemes

VALID FROM 11/01/2010

37 Variation or revocation of scheme

- (1) Section 132 of the TA 2000 (variation or revocation of scheme) is amended as follows.
- (2) In subsection (2) (which refers to the conditions in certain provisions of section 124) for “subsection (1)(a) and (b)” substitute “ subsection (1)(a) to (e) ”.
- (3) In subsection (4) (grounds for revocation) for “or” at the end of paragraph (a) substitute—
 - “(aa) if they consider that those conditions would no longer be met with respect to it if they were to act in accordance with a direction given by the Transport Tribunal under this Part, or”.
- (4) In subsection (4A) (which defines the “relevant conditions” according to whether the scheme has been varied or not)—
 - (a) in paragraph (a), before “varied” insert “ continued in operation under section 131A or ”,
 - (b) also in paragraph (a), for “124(1)(a) and (b)” substitute “ 124(1)(a) to (e) ”,
 - (c) in paragraph (b), before “varied” insert “ continued in operation under section 131A or ”,
 - (d) in paragraph (c), before “varied”, in the first place where it occurs, insert “ continued in operation under section 131A or ”,
 - (e) also in paragraph (c), before “varied”, in the second place where it occurs, insert “ continued in operation or ”.
- (5) For subsection (5) (procedure for varying or revoking a scheme etc) substitute—

“(5) The variation or revocation of a scheme under subsection (1) or (4) is subject to the provisions of—

 - (a) subsection (6) (revocation: areas in England),
 - (b) subsection (7) (non-exempt variation: areas in England),
 - (c) subsection (8) (exempt variation: areas in England), or
 - (d) subsection (9) (areas in Wales),

except to the extent that section 132B (exemption for specific variations directed by Transport Tribunal on appeal) otherwise provides.
- (6) The revocation of a scheme for an area in England is subject to the following requirements—
 - (a) before deciding to revoke the scheme, the authority or authorities must consult the persons mentioned in section 125(3) and each relevant traffic commissioner,
 - (b) as soon as reasonably practicable after deciding to revoke the scheme, the authority or authorities must give notice of the decision to each relevant traffic commissioner and must publish the notice in at least one newspaper circulating in the area to which the scheme relates,

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(c) the notice must state that the decision has been taken and specify the date on which the revocation is to take effect,

except to the extent that those requirements are modified or excluded by regulations made by the Secretary of State under section 133.

For the purposes of this subsection “relevant traffic commissioner” means the traffic commissioner for any traffic area which consists of or includes the whole or any part of the area to which the scheme relates.

(7) The non-exempt variation of a scheme for an area in England is subject to the same procedure as the making of the scheme, except to the extent that that procedure is modified or excluded by regulations made by the Secretary of State under section 133.

(8) The exempt variation of a scheme for an area in England is subject to the same procedure as the making of a scheme, except to the extent that that procedure is modified or excluded by regulations made by the Secretary of State under section 133, but for the purposes of this subsection—

(a) sections 124(2)(c) and (2A), 126A to 126E and 127(1)(a) and (1A) (the QCS board provisions) do not apply;

(b) there is no requirement to give notice to the senior traffic commissioner under section 125(1)(d);

(c) the authority or authorities must consult any traffic commissioner falling within section 125(3)(e) (which accordingly has effect for this purpose with the omission of the words “if the proposed scheme relates to an area in Wales,”);

(d) sections 127A and 127B (appeals to the Transport Tribunal) do not apply;

(e) section 132A (appeals where proposed variation considered exempt) has effect in those cases for which it makes provision.

(9) The variation or revocation of a scheme for an area in Wales—

(a) requires the approval of the Welsh Ministers, except in the case of a variation which is an exempt variation, and

(b) is subject to the same procedure as the making of the scheme, except to the extent that that procedure is modified or excluded by regulations made by the Welsh Ministers under section 133.

(10) Section 130 (tendering) applies to a varied scheme (whether or not the variation is an exempt variation) but subject to regulations made by the appropriate national authority under section 133(3).

(11) A variation of a scheme is an exempt variation for the purposes of this section if the variation is—

(a) a reduction in the area to which the scheme relates,

(b) a reduction in the descriptions of services which are to be provided under quality contracts, or

(c) the provision of new exclusions from the scheme,

and a “non-exempt variation” is any other variation of a scheme.”

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- (6) In consequence of the amendments made by subsection (5), renumber subsection (6) (regulations about revoking schemes before they come into operation) as subsection (12).

38 Appeals where proposed variation considered exempt

After section 132 of the TA 2000 insert—

“132A Appeals where proposed variation considered exempt

- (1) This section applies where an authority or authorities who propose to vary a quality contracts scheme under section 132—
 - (a) decide that the proposal is an exempt variation for the purposes of that section, and
 - (b) acting on the basis of that decision, decide to vary the scheme under that section.
- (2) Any person falling within subsection (3) may appeal to the Transport Tribunal against—
 - (a) the decision of the authority or authorities that the variation is an exempt variation for the purposes of section 132, or
 - (b) the decision of the authority or authorities as to the variation of the scheme under that section.
- (3) The persons are—
 - (a) any person who was consulted under section 125(3) (as it applies by virtue of subsection (8) or, as the case may be, (9)(b) of section 132 in a case where the variation is an exempt variation for the purposes of section 132),
 - (b) any person who was not so consulted, but who, in the opinion of the Transport Tribunal, ought to have been so consulted.
- (4) An appeal under this section may be—
 - (a) on a point of law, or
 - (b) on a question of fact.
- (5) On an appeal under this section the Transport Tribunal shall have power—
 - (a) to make such order as they think fit, or
 - (b) to remit any matter (with or without directions) to the authority or authorities for their consideration or determination or for such other purposes as the Tribunal may direct.
- (6) The powers of the Tribunal on an appeal under this section include power to do any one or more of the following—
 - (a) dismiss the appeal in whole or in part,
 - (b) remit the matter to the authority or authorities with one or more directions under subsection (7),
 - (c) direct the authority or authorities to vary the scheme, to the extent of the variation made by the authority or authorities, in such manner as the Tribunal may specify in the direction (but see subsection (8)),

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- (d) quash the whole or any part of the decision of the authority or authorities.
- (7) A direction under this subsection is a direction for the authority or authorities to do each of the following—
- (a) consider or reconsider such matters as may be specified in the direction,
 - (b) as respects those matters, consult or further consult the persons mentioned in section 125(3) (as it applies by virtue of subsection (8) or, as the case may be, (9)(b) of section 132 in a case where the variation is an exempt variation for the purposes of section 132),
 - (c) make such variations of the scheme as may in consequence appear appropriate to the authority or authorities.
- (8) The Tribunal may give a direction under this section to vary a scheme by reducing the area to which the scheme relates only if they are of the opinion that the conditions in section 132(3) are met.
- (9) If, on an appeal under paragraph (a) or (b) of subsection (2), the Tribunal decide that the variation was not an exempt variation for the purposes of section 132—
- (a) they must allow the appeal to that extent,
 - (b) they must remit the matter to the authority or authorities, with or without directions, and
 - (c) subsections (10) to (13) have effect.
- (10) The directions that the Tribunal may give under this section include—
- (a) directions to take any action specified in the directions for the purpose of remedying any failure to comply with requirements of this Part that have effect where a proposed variation under section 132 is not an exempt variation,
 - (b) directions to make variations specified in the directions for the purpose of securing that the condition in paragraph (a), (b) or (c) of section 132(11) (meaning of “exempt variation”) is met in the case of the variation,
 - (c) directions authorising the scheme to continue in operation temporarily, with or without variations, for a period specified or described in the directions, but subject to compliance with conditions as to the time within which any particular action specified in directions under this section is to be taken.
- (11) Where the Tribunal give directions falling within subsection (10), they may also make provision in the order dispensing with the need to comply with such procedural requirements imposed by or under this Part as they may specify in the order.
- (12) If the scheme or proposed scheme relates to an area in Wales, the Tribunal may not make any order which has the effect of—
- (a) giving approval under section 126 as it applies by virtue of section 132, or
 - (b) dispensing with the need for any such approval,
- but this is without prejudice to the temporary provision that may be made in directions falling within subsection (10)(c).

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- (13) The appropriate national authority may make regulations with respect to the procedure to be followed in cases where the Tribunal decide that the variation or proposed variation was not an exempt variation for the purposes of section 132.”.

Commencement Information

I5 S. 38 partly in force; s. 38 in force at Royal Assent for specified purposes, see s. 134(1)(c)

VALID FROM 11/01/2010

39 Exemption from s.132 for specific variations directed by Transport Tribunal

After section 132A of the TA 2000 insert—

“132B Exemption from s.132 for specific variations directed by Tribunal

- (1) This section applies in relation to any of the following appeals—
- (a) an appeal under section 127A against a decision to make a scheme,
 - (b) an appeal under section 131E(2)(a) against a decision that a proposal was an exempt continuation proposal,
 - (c) an appeal under section 131E(2)(b) against a decision that a scheme should continue in operation,
 - (d) an appeal under section 131F(2) against a decision that a scheme should continue in operation,
 - (e) an appeal by virtue of section 132 against a decision to vary a scheme,
 - (f) an appeal under section 132A(2)(a) against a decision that a variation was an exempt variation for the purposes of section 132,
 - (g) an appeal under section 132A(2)(b) against a decision as to the variation of a scheme under section 132.
- (2) Where—
- (a) any such appeal is made to the Transport Tribunal, and
 - (b) on that appeal, the Tribunal direct the authority or authorities to vary the scheme in the manner specified by the Tribunal in the direction, nothing in section 132(5) to (9) (procedure for variation of scheme) applies in relation to the varying of the scheme in the manner specified in the direction, unless the Tribunal otherwise direct.
- (3) Subsection (2) is without prejudice to any right of appeal against the decision of the Transport Tribunal.”.

Status: Point in time view as at 26/11/2008. This version of this part contains provisions that are not valid for this point in time.

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Quality contracts schemes: miscellaneous and supplementary provisions

VALID FROM 11/01/2010

40 Power of authorities to provide services in exceptional circumstances

(1) After section 132B of the TA 2000 insert—

“132C Power of authorities to provide services in exceptional circumstances

- (1) This section applies where a person who has agreed to provide a service (“the old service”) in accordance with a quality contract ceases to do so before the end of the period for which the contract was intended to have effect.
- (2) The authority, or any one of the authorities, who entered into the quality contract may, in accordance with subsections (4) to (8) and section 132D, provide a local service (an “interim service”) in place of the old service or any part of it.
- (3) Subsection (2) has effect notwithstanding any prohibition, restriction or limitation contained in any other enactment on the power of the authority to provide local services.
- (4) An authority who provide an interim service of any description must hold a PSV operator's licence to which no condition is attached under section 26 of the Transport Act 1985 (power of traffic commissioner to attach conditions to licence) prohibiting the authority from using vehicles under the licence to provide services of that description.
- (5) Subsection (6) applies if—
 - (a) an authority provide an interim service in place of an old service or any part of an old service, and
 - (b) the authority or authorities who entered into the quality contract for the provision of the old service propose to enter into a quality contract for the provision of a replacement service in place of that service or (as the case may be) that part.
- (6) The authority, or the authorities acting jointly, must invite tenders (in accordance with section 130) for the provision of the replacement service—
 - (a) as soon as reasonably practicable after the authority providing the interim service begin to do so, and
 - (b) in any event no later than three months after the date on which provision of the old service ceased.
- (7) But subsection (6) does not apply if the authority, or the authorities acting jointly, decide to secure the provision of the replacement service under section 131 (circumstances in which quality contracts may be entered into without inviting tenders).
- (8) The particulars of an interim service, or of a replacement service, need not be identical to the particulars of the old service, or that part of the old service, which it replaces.

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(9) In this section—

- “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978);
- “interim service” has the meaning given by subsection (2);
- “the old service” has the meaning given by subsection (1);
- “replacement service” means a local service provided under a quality contract in place of an old service or any part of an old service.

132D Period for which interim service may be provided

- (1) This section applies for the purpose of determining the period for which an authority may provide an interim service which is provided in place of—
 - (a) an old service (“the relevant service”), or
 - (b) part of an old service (“the relevant part”).
- (2) If the authority do not, within the period of three months beginning with the date on which provision of the relevant service ceased,—
 - (a) enter into a quality contract to provide a replacement service in place of the relevant service or (as the case may be) the relevant part, or
 - (b) issue an invitation to tender in pursuance of section 132C(6),
 the authority must not provide the interim service after the end of that period.
- (3) If the authority enter into a quality contract to provide such a replacement service within the period mentioned in subsection (2), the authority must not provide the interim service after the earlier of the following dates—
 - (a) the date on which the replacement service is first provided;
 - (b) the date falling nine months after the date on which the interim service is first provided.
- (4) If the authority issue invitations to tender in pursuance of section 132C(6) within the period mentioned in subsection (2) (but do not enter into a quality contract to provide such a replacement service within that period), the authority must not provide the interim service after the earlier of the following dates—
 - (a) the date on which a replacement service is first provided in place of the relevant service or (as the case may be) the relevant part;
 - (b) the date determined in accordance with subsection (5).
- (5) The date is the later of—
 - (a) the date falling nine months after the date on which the interim service is first provided;
 - (b) such date, not later than three months after the date mentioned in paragraph (a), as may be determined by the traffic commissioner on the application of the authority.
- (6) The traffic commissioner may determine a date under subsection (5)(b) only if satisfied that there is a realistic prospect that, if the determination is made, a replacement service will be provided in place of the relevant service or (as the case may be) the relevant part on or before that date.

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- (7) An application under paragraph (b) of subsection (5) must be made—
- (a) to the traffic commissioner for the traffic area in which the interim service is provided (or, if the service is provided in more than one such area, to the traffic commissioner for any of those areas), and
 - (b) not later than one month before the date mentioned in paragraph (a) of that subsection.
- (8) The authority must not make more than one application under subsection (5) (b) in respect of any interim service.
- (9) In this section—
- “interim service” and “replacement service” have the meaning given in section 132C;
 - “the relevant service” and “the relevant part” have the meaning given in subsection (1);
- and, in any case where the authority entered into the quality contract for the provision of the relevant service jointly with one or more other authorities, references in this section to the authority entering into a quality contract for a replacement service, or issuing invitations to tender for such contracts, are references to those authorities acting jointly.”
- (2) In section 162(4) of the TA 2000 (provisions where references to Passenger Transport Authorities are to be read as references to Passenger Transport Executives) at the appropriate place insert—
- “section 132C,
 - section 132D,”.
- (3) In section 66(1) of the TA 1985 (exclusion of powers of certain councils to run bus undertakings) after “subsection (2) below” insert “ and to section 132C of the Transport Act 2000 ”.

41 Regulations about schemes

- (1) Section 133 of the TA 2000 (regulations about schemes) is amended as follows.
- (2) In subsection (1)(a) (regulations with respect to making, varying or revoking schemes) after “making” insert “ continuing, ”.
- (3) In subsection (1)(b) (approvals of schemes) after “schemes” insert “ for areas in Wales ”.
- (4) After subsection (1)(b) insert—
- “(bb) the procedure to be followed by local transport authorities for areas in England when discharging functions that relate to a QCS board,
 - (bc) the procedure to be followed by QCS boards when discharging functions relating to proposed schemes for areas in England,”.
- (5) In subsection (2) (particular matters for which regulations may provide)—
- (a) in paragraph (a) (proposed variations or revocation of schemes) before “variations” insert “ continuations, ”;

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- (b) in paragraph (e) (applications for approval of proposals) after “proposals” insert “ for areas in Wales ”;
 - (c) after paragraph (e) (form and manner of applications for approval) insert—
 - “(ee) the procedure for determining such applications,
 - (ef) the form and manner of requests under section 126C(4) relating to proposed schemes for areas in England,
 - (eg) the form and manner in which copies of proposed schemes for such areas are to be sent to a QCS board under section 126C(5),
 - (eh) the giving of notice, and the preparation and publication of reports, by QCS boards under section 126D(5),
 - (ei) the form and manner of responses by local transport authorities to such reports,”;
 - (d) in paragraph (f) (form of schemes or variations) after “schemes” insert “ , continuations ”;
 - (e) in paragraph (g) (notice of schemes or of their variation or revocation) before “variation” insert “ continuation, ”.
- (6) After subsection (2) insert—
- “(3) The appropriate national authority may also make regulations modifying or excluding the application of provisions of this Part, so far as relating to quality contracts schemes, in cases where a local transport authority, or two or more local transport authorities acting jointly, do any of the following—
- (a) by virtue of section 126C(6), send to a QCS board a further request under section 126C(4) and modified proposals under section 126C(5),
 - (b) propose or decide that a scheme should continue in operation (with or without modification) under section 131A,
 - (c) propose or decide to vary or revoke a scheme under section 132.
- (4) Regulations made by virtue of subsection (3) must not exclude any requirement for the authority or authorities—
- (a) under section 126, to obtain the approval of the Welsh Ministers,
 - (b) under section 127(1A), to publish their response to the report of the QCS board.”.

Commencement Information

I6 S. 41 partly in force; s. 41(6) in force at Royal Assent for specified purposes, see s. 134(1)(c)

VALID FROM 11/01/2010

42 Power to make transitional provision about schemes

- (1) Section 134 of the TA 2000 (transitional provision about schemes) is amended as follows.
- (2) In subsection (1)(a) (transitional provision about the coming into operation of quality contracts schemes) after “quality contracts schemes” insert “ or of provisions of such schemes ”.

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- (3) In subsection (1)(b) (transitional provision in connection with variation of schemes) before “variation” insert “ continuation in operation or ”.
- (4) In subsection (2) (application or disapplication, with or without modifications, of sections 6 to 9 of the TA 1985) in paragraph (a), after “(registration of local services)” insert “ , or of sections 89 to 92 of that Act (obligation to invite tenders etc), ”.
- (5) At the end of the section insert—
 - “(3) Any regulations made by virtue of paragraph (a) of subsection (1) are not to have effect in the case of any quality contracts scheme as respects any time before the making of the scheme.”.

VALID FROM 11/01/2010

43 Guidance about schemes

After section 134 of the TA 2000 insert—

“134A Guidance about schemes

- (1) The appropriate national authority may issue guidance concerning the performance by local transport authorities of their functions under this Part in relation to quality contracts schemes.
- (2) Those authorities must have regard to any such guidance.”.

44 Quality contracts: application of TUPE

(1) After section 134A of the TA 2000 insert—

“134B Quality contracts: application of TUPE

- (1) Subsection (3) applies to a situation in which—
 - (a) on the coming into force of a quality contract, local services cease to be provided by a person (the “former operator”) in the area to which the relevant quality contracts scheme, or (in the case of a scheme which provides for different provisions to come into operation on different dates) the relevant provision of the scheme, relates, in accordance with section 129(1)(b), and
 - (b) at the same time, a person (the “new operator”) begins to provide local services in that area under that quality contract.
- (2) Subsection (3) also applies to a situation in which—
 - (a) local services which, on the coming into force of a quality contract, a person (the “former operator”) would be required by virtue of section 129(1)(b) to cease providing in the area mentioned in subsection (1)(a) of this section, cease to be provided by the former operator before the coming into force of that quality contract, and

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- (b) at the same time, a person (the “new operator”) begins to provide local services in that area under an agreement which the authority or authorities who made the relevant quality contracts scheme entered into by reason of the cessation of the local services referred to in paragraph (a).
- (3) Any situation to which this subsection applies is to be treated as a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”) (whether or not TUPE would apply apart from this subsection).
- (4) For the purposes of TUPE, the organised grouping of employees that is subject to the relevant transfer consists of those employees of the former operator whose employment is principally connected with the provision of the local services referred to in subsection (1)(a) or (as the case may be) the local services referred to in subsection (2)(a).
- (5) Any situation which by virtue of this section is treated as a relevant transfer for the purposes of TUPE is also to be treated as a relevant transfer within the meaning of TUPE for the purposes of sections 257 and 258 of the Pensions Act 2004 and any regulations made under section 258 of that Act.
- (6) The Secretary of State may make regulations supplementing the provision made by this section.
- (7) The provision that may be made by regulations under subsection (6) includes—
 - (a) provision for determining, for the purposes of subsection (4), whether a person's employment is principally connected with the provision of any particular local services (including provision for or in connection with the appointment of a person to make such determination);
 - (b) provision for determining, in the case of any particular organised grouping of employees, the particular new operator who is to be the transferee for the purposes of TUPE (including provision for or in connection with the appointment of a person to make such determination);
 - (c) provision requiring any person operating local services in the area to which a quality contracts scheme relates to provide the authority or authorities who made the scheme with such information as may be prescribed, at such time as may be prescribed, about such of that person's employees as would fall within subsection (4) if the person ceased to provide those services in the circumstances described in subsection (1)(a);
 - (d) provision requiring the authority or authorities who made a quality contracts scheme to provide all persons operating local services in the area to which the scheme relates with such information as may be prescribed, at such time as may be prescribed, so as to enable such persons to comply with any requirement imposed by virtue of paragraph (c) of this subsection;
 - (e) provision requiring the authority or authorities who made a quality contracts scheme to ensure that any quality contract entered into with a person under the scheme, or any other agreement made with a person

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for the provision of local services in the area to which the scheme relates, is made on terms—

- (i) that require the person, in the event of there being any transferring employees, to secure pension protection for every transferring employee, or every transferring employee of a prescribed description, who as an employee of the former operator had rights to acquire pension benefits, and
 - (ii) that, so far as relating to the securing of pension protection for a transferring employee, are enforceable by the employee.
- (8) For the purposes of this section—
- (a) “transferring employee” means an employee of a former operator whose contract of employment becomes, either by virtue of TUPE or by virtue of this section, a contract of employment with a new operator;
 - (b) “pension protection” is secured for a transferring employee if after the change of employer referred to in paragraph (a)—
 - (i) the employee has, as an employee of the new operator, rights to acquire pension benefits, and
 - (ii) those rights are of such description as is prescribed by regulations.
- (9) The Secretary of State must exercise the power conferred by this section to make regulations containing provision falling within subsection (7)(e) so as to ensure—
- (a) that pension protection is required to be secured for every transferring original employee who, as an employee of the original operator, had rights to acquire pension benefits, and
 - (b) that the rights to acquire pension benefits which a transferring original employee has as an employee of the new operator by virtue of paragraph (a) are rights which—
 - (i) are the same as the rights the transferring original employee had as an employee of the original operator, or
 - (ii) under provision made by regulations, count as being broadly comparable to, or better than, those rights.
- (10) For the purposes of subsection (9)—
- “transferring original employee” means a transferring employee—
- (a) who immediately before the relevant date was employed by a person (the “original operator”) providing local services in the area to which the relevant quality contracts scheme relates, and
 - (b) whose contract of employment—
 - (i) was, from that date until the change of employer referred to in subsection (8)(a), a contract of employment with the original operator, or
 - (ii) on each occasion when the employee was subject to a relevant transfer became, either by virtue of TUPE or by virtue of this section, a contract of employment with a person providing local services in the area referred to in paragraph (a);
- “relevant date”, in relation to a quality contracts scheme, means—

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- (a) the date on which the scheme was made, or
- (b) where—
 - (i) the local services being provided by the original operator were not subject to the scheme when it was made, and
 - (ii) as a result of either the variation of the scheme, or the continuation of the scheme with modifications, those services became subject to the scheme,

the date on which that variation, or (as the case may be) the decision to continue the scheme with those modifications, was made;

“relevant transfer” means anything that is, or is to be treated as, a relevant transfer for the purposes of TUPE.

- (11) A person is guilty of an offence under this subsection if—
 - (a) the person provides information in accordance with a requirement imposed by virtue of subsection (7)(c),
 - (b) the information is false or misleading in a material particular, and
 - (c) the person knows that it is or is reckless as to whether it is.

- (12) A person who is guilty of an offence under subsection (11) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.”.

- (2) In section 26(1) of the TA 1985 (conditions attached to PSV operator's licence) after paragraph (b) insert—

“(bza) the operator has failed to comply with a requirement imposed by virtue of section 134B(7)(c) of the Transport Act 2000; or”.

- (3) In section 155(1) of the TA 2000 (penalties) for “or” at the end of paragraph (b) substitute—

“(ba) failed to comply with a requirement imposed by virtue of section 134B(7)(c) of this Act, or”.

Commencement Information

I7 S. 44 partly in force; s. 44 in force at Royal Assent for specified purposes, see s. 134(1)(c)

VALID FROM 11/01/2010

45 Power to make traffic regulation orders

- (1) Section 1 of the Road Traffic Regulation Act 1984 (c. 27) (traffic regulation orders outside Greater London) is amended as follows.

- (2) In subsection (3A) (orders may be made by local traffic authority for the purposes of quality partnership schemes) for “facilities pursuant to a quality partnership scheme under Part II of the Transport Act 2000” substitute “relevant bus scheme facilities”.

- (3) After subsection (3A) insert—

“(3B) In subsection (3A) “relevant bus scheme facilities” means—

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- (a) facilities provided pursuant to a quality partnership scheme under Part 2 of the Transport Act 2000;
- (b) facilities provided pursuant to a quality contract within the meaning of that Part (see section 124(4) and (5) of that Act) or otherwise in connection with a quality contracts scheme under that Part.”.

Extension of the competition test

46 Competition scrutiny of functions and agreements relating to buses

- (1) For section 153 of the TA 2000 (competition test for exercise of bus functions (see Schedule 10 to that Act)) substitute—

“153 Competition test: functions and agreements relating to buses

- (1) Schedule 10 contains provision applying competition tests in relation to—
- (a) the exercise of functions relating to quality partnership schemes, ticketing schemes and subsidised local services,
 - (b) voluntary partnership agreements and certain other agreements, decisions and practices relating to bus services.
- (2) A voluntary partnership agreement is any voluntary agreement under which—
- (a) a local transport authority, or two or more local transport authorities, undertake to provide particular facilities, or to do anything else for the purpose of bringing benefits to persons using local services, within the whole or part of their area, or combined area, and
 - (b) one or more operators of local services undertake to provide services of a particular standard.
- (3) In subsection (2)—
- “facilities” means—
- (a) facilities provided at specific locations along routes served, or proposed to be served, by local services within the area to which the agreement relates, or
 - (b) facilities which are ancillary to such facilities;
- “standard”, in the case of any services, includes—
- (a) any requirements which the vehicles being used to provide the services must meet,
 - (b) any requirements as to frequency or timing of the services,
 - (c) any requirements as to the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions, on services to which the agreement applies;
- “voluntary agreement” means an agreement made otherwise than under sections 114 to 123 (quality partnership schemes).”.

- (2) In section 162 of that Act (interpretation of Part 2) after subsection (4) insert—

“(4A) Where a reference to an authority in any of the following provisions is to an Integrated Transport Authority, it is to be construed as including a

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reference to the Passenger Transport Executive for the integrated transport area concerned—

section 153(2)(a),

in Schedule 10, paragraph 17(5)(b) and (8).”.

(3) Schedule 10 to the TA 2000 (competition test for exercise of bus functions) is amended in accordance with Schedule 2.

Commencement Information

18 S. 46 partly in force; s. 46(3) in force at Royal Assent for specified purposes, see s. 134(1)(c)

Status:

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Changes to legislation:

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