



# Bus Services Act 2017

## 2017 CHAPTER 21

### *Enhanced partnership plans and schemes*

#### **9 Enhanced partnership plans and schemes**

In Part 2 of the Transport Act 2000, after section 138 insert—

*“Bus services: enhanced partnership plans and schemes*

#### **138A Enhanced partnership plans and schemes**

- (1) A local transport authority whose area is in England, or two or more such authorities acting jointly, may make—
  - (a) an enhanced partnership plan in relation to the whole or part of their area, or combined area, and
  - (b) one or more enhanced partnership schemes relating to the whole or part of the area to which the plan relates.
- (2) A local transport authority or authorities who have made an enhanced partnership plan may make further enhanced partnership schemes relating to the whole or part of the area to which the plan relates.
- (3) An enhanced partnership plan is a plan that—
  - (a) specifies the area and the period to which the plan relates,
  - (b) sets out an analysis of the local services provided in that area,
  - (c) sets out policies relating to local services in that area,
  - (d) sets out objectives as regards the quality and effectiveness of local services provided in that area by reference to that period,
  - (e) describes how the related enhanced partnership scheme or schemes is or are intended to assist in implementing those policies and achieving those objectives, and

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- (f) describes the intended effect of the related enhanced partnership scheme or schemes on areas neighbouring the area to which the plan relates.
- (4) An enhanced partnership plan must state whether the plan is to be reviewed and, if so—
    - (a) specify how it is to be reviewed, and
    - (b) specify the dates by which reviews are to be completed.
  - (5) An enhanced partnership scheme is a scheme that—
    - (a) specifies the area to which the scheme relates, and
    - (b) imposes requirements in relation to local services that have one or more stopping places in that area by specifying them in the scheme (see section 138C).
  - (6) An enhanced partnership scheme may also—
    - (a) require the authority or authorities to provide particular facilities in the area to which the scheme relates (see section 138D),
    - (b) require the authority or authorities to take particular measures in relation to routes in the whole or part of that area that are served, or might be served, by local services (see section 138D), and
    - (c) include provision about its variation or revocation (see section 138E).
  - (7) An enhanced partnership scheme must state whether the operation of the scheme is to be reviewed and, if so—
    - (a) specify how it is to be reviewed, and
    - (b) specify the dates by which reviews are to be completed.
  - (8) An enhanced partnership plan must include a description of the authority's or authorities' plans for consulting such organisations appearing to the authority or authorities to be representative of users of local services as they think fit in order to seek their views on how well the plan and any related scheme are working.
  - (9) An enhanced partnership scheme may not be made unless the authority or authorities are satisfied that the scheme will contribute to the implementation of—
    - (a) the policies set out in the related enhanced partnership plan, and
    - (b) their local transport policies.
  - (10) An enhanced partnership scheme may not be made unless the authority or authorities are satisfied that the scheme will—
    - (a) bring benefits to persons using local services in the whole or any part of the area to which the scheme relates by improving the quality or effectiveness of those services, or
    - (b) reduce or limit traffic congestion, noise or air pollution.
  - (11) An enhanced partnership plan or scheme may not be made unless the authority or authorities have complied with the requirements in—
    - (a) section 138F (preparation, notice and consultation), and
    - (b) section 138G(1) to (4) (making of plan and scheme).

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- (12) An enhanced partnership plan may not be made without also making an enhanced partnership scheme.
- (13) In carrying out their functions under this Part in relation to enhanced partnership plans or schemes local transport authorities must co-operate with each other.
- (14) Before making an enhanced partnership plan, a local transport authority must have regard to the desirability, in appropriate cases, of making an enhanced partnership plan and enhanced partnership schemes jointly with one or more other local transport authorities.

### **138B Further parties to a scheme**

- (1) Subsection (2) applies if—
  - (a) the provision of any of the facilities specified in an enhanced partnership scheme, or
  - (b) the taking of any of the measures specified in such a scheme,requires the making of a traffic regulation order in respect of a road or other place in a metropolitan district (other than a road for which the Secretary of State is the traffic authority).
- (2) Where this subsection applies, the scheme may not be made unless it is made by—
  - (a) the local transport authority or authorities, and
  - (b) the metropolitan district council for the district,acting jointly.
- (3) Subsection (4) applies if—
  - (a) the provision of any of the facilities specified in an enhanced partnership scheme, or
  - (b) the taking of any of the measures specified in such a scheme,requires the making of a traffic regulation order in respect of a road for which the Secretary of State is the traffic authority.
- (4) Where this subsection applies, the scheme may not be made unless it is made by—
  - (a) the local transport authority or authorities, and
  - (b) the Secretary of State,acting jointly.
- (5) Where subsection (2) or (4) applies so that a metropolitan district council or the Secretary of State makes an enhanced partnership scheme, then (subject to section 138N) the references to the authority or authorities in—
  - (a) sections 138A(6) and (11),
  - (b) sections 138F to 138J,
  - (c) section 138K(1) and (3) to (5),
  - (d) sections 138L and 138M,
  - (e) section 138O, and
  - (f) paragraph 27(4) of Schedule 9 to the Road Traffic Regulation Act 1984,

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include (as well as the local transport authority or authorities) the metropolitan district council or the Secretary of State.

- (6) Subsection (5) is not to be taken as affecting the area indicated by references in the provisions mentioned in that subsection to the authority's or authorities' area or combined area.

### **138C Requirements in respect of local services**

- (1) An enhanced partnership scheme may specify under section 138A(5)(b) requirements about the frequency or timing of particular local services or local services of particular descriptions.
- (2) A requirement falling within subsection (1) may, in particular, determine the frequency or timing allowed in relation to a local service—
- (a) by reference only to that service, or
  - (b) by reference to that service and other local services, taken together.
- (3) An enhanced partnership scheme may specify under section 138A(5)(b) other requirements as to the standard of services to be provided.
- (4) The other requirements referred to in subsection (3) include—
- (a) requirements which the vehicles being used to provide local services, or particular descriptions of local services, must meet,
  - (b) requirements about enabling tickets to be purchased or fares to be paid in particular ways,
  - (c) requirements about enabling entitlement to travel to be evidenced in particular ways,
  - (d) requirements about providing information to the public about local services or particular descriptions of local services,
  - (e) requirements as to the publicising of local services, fares or ticketing arrangements or particular descriptions of local services, fares or ticketing arrangements,
  - (f) requirements as to the appearance of tickets for local services or particular descriptions of local services,
  - (g) requirements as to the appearance of vehicles being used to provide local services or particular descriptions of local services,
  - (h) requirements as to the prices of multi-operator tickets,
  - (i) requirements as to dates upon which operators may change the timing of local services or particular descriptions of local services, and
  - (j) requirements as to ticketing arrangements.
- (5) The requirements that may be specified under subsection (4)(a) include—
- (a) requirements about providing information to passengers by placing particular electronic equipment, or electronic equipment of particular descriptions, in vehicles, and
  - (b) requirements about emissions or types of fuel or power.
- (6) The requirements that may be specified under subsection (4)(b) include requirements about the persons from whom tickets may be purchased or to whom fares may be paid.

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- (7) The requirements that may be specified under subsection (4)(j) include—
- (a) requirements to make arrangements for—
    - (i) travel to, within or through particular areas,
    - (ii) travel at particular times,
    - (iii) travel on particular local services or particular descriptions of local services,
    - (iv) travel on particular journeys or on particular descriptions of journey, or
    - (v) travel by persons of particular descriptions,
  - (b) requirements to make arrangements entitling persons to make a journey, or journeys, involving both travel on one or more local services and travel by one or more connecting rail or tram services, and
  - (c) requirements about the terms and conditions upon which such travel is made available.
- (8) A connecting rail or tram service, in relation to an enhanced partnership scheme, is a service for the carriage of passengers by railway or by tramway (or by both) which runs between—
- (a) a station or stopping place at or in the vicinity of which local services stop and which serves any part of the area to which the scheme relates, and
  - (b) any other place.
- (9) The requirements that may be specified in an enhanced partnership scheme also include requirements as to operators of local services establishing and operating arrangements that facilitate the operation of the scheme.
- (10) A requirement imposed by an enhanced partnership scheme has effect only in relation to so much of a local service as is provided in the area to which the scheme relates.
- (11) An enhanced partnership scheme may not impose requirements in relation to the use of vehicles under permits granted under section 22 of the Transport Act 1985.
- (12) In this section “multi-operator ticket” means a ticket, or a number of tickets purchased in a single transaction, entitling the holder to make a journey that involves or may involve, or journeys that involve or may involve, the use of local services provided by more than one operator.

### **138D Facilities and measures**

- (1) The facilities which may be specified in an enhanced partnership scheme—
- (a) must be facilities provided at specific locations along routes served, or proposed to be served, by local services within the area to which the scheme relates, or facilities which are ancillary to such facilities, but
  - (b) may not be facilities which are required to be provided as a result of section 139 or 140.
- (2) The measures which may be specified in an enhanced partnership scheme—
- (a) must be measures taken for the purpose of—

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- (i) increasing the use of local services serving the routes to which the measures relate or ending or reducing a decline in the use of such services, or
    - (ii) improving the quality of local services serving the routes to which the measures relate, but
  - (b) may not include the provision of such facilities as are described in subsection (1)(a) or as are required to be provided as a result of section 139 or 140.
- (3) The Secretary of State may by regulations make further provision about the measures which may or may not be specified in an enhanced partnership scheme.

### **138E Provision relating to variation or revocation**

- (1) An enhanced partnership scheme may specify cases in which the scheme may be varied or revoked in accordance with the scheme.
- (2) The scheme may provide for variation or revocation in a particular case to be subject to satisfying such conditions as the scheme specifies.
- (3) The cases that may be specified under subsection (1) as regards variation include cases where the variations in question consist only of such descriptions of variation as are specified in the scheme.
- (4) The conditions that may be specified under subsection (2) include conditions prohibiting variation or revocation where a number of operators of local services disagree to the variation or revocation.

### **138F Preparation, notice and consultation**

- (1) If a local transport authority or authorities propose to make an enhanced partnership plan and scheme, they must—
  - (a) give notice of their intention to prepare a plan and scheme in such manner as they consider appropriate for bringing it to the attention of persons in their area or combined area,
  - (b) prepare a plan and scheme for consultation,
  - (c) give notice of the plan and scheme prepared to the persons who are operators of qualifying local services in the area to which the plan relates on the relevant day, and
  - (d) give notice of the proposal to make the plan and scheme in such manner as they consider appropriate for bringing it to the attention of persons in their area or combined area.
- (2) A notice under subsection (1)(c) must—
  - (a) contain full details of the plan and scheme prepared,
  - (b) state the effect of subsection (5), and
  - (c) state the period within which objections may be made (which may not be less than 28 days).
- (3) A notice under subsection (1)(d) must—
  - (a) contain full details of the plan and scheme proposed, or

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- (b) state where such details may be inspected.
- (4) A local transport authority or authorities proposing to make an enhanced partnership plan and scheme must—
- (a) invite operators of qualifying local services in the area to which the plan relates to participate in the preparation of the plan and scheme before starting to prepare them, and
  - (b) invite any person who becomes an operator of a qualifying local service in the area to which the plan relates while the plan and scheme are being prepared to participate in that preparation (including any person who becomes such an operator because of a change in the area to which the plan relates while the plan is being prepared).
- (5) A local transport authority or authorities may not give notice of a proposal under subsection (1)(d) if, within the period for objections stated in the notice under subsection (1)(c)—
- (a) a sufficient number of the persons who, on the relevant day, are operators of qualifying local services in the area to which the plan relates object to the plan prepared, or
  - (b) a sufficient number of the persons who, on the relevant day, are operators of qualifying local services in the area to which the scheme relates object to the scheme prepared.
- (6) After giving notice of the proposed plan and scheme under subsection (1)(d), the authority or authorities must consult—
- (a) all operators of local services who would, in the opinion of the authority or authorities, be affected by them,
  - (b) such organisations appearing to the authority or authorities to be representative of users of local services as they think fit,
  - (c) any other relevant local authority any part of whose area would, in the opinion of the authority or authorities, be affected by them,
  - (d) a traffic commissioner,
  - (e) the chief officer of police for each police area covering the whole or part of the area to which the plan relates,
  - (f) the Passengers' Council,
  - (g) the Competition and Markets Authority, and
  - (h) such other persons as the authority or authorities think fit.
- (7) For the purpose of subsection (6)(c) the following are relevant local authorities—
- (a) local transport authorities,
  - (b) district councils in England,
  - (c) National Park authorities,
  - (d) the Broads Authority,
  - (e) London transport authorities, and
  - (f) councils in Scotland.
- (8) If a local transport authority or authorities propose to make a scheme or schemes relating to an existing enhanced partnership plan, subsections (1) to (7) have effect as if—

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- (a) references to a proposed plan and scheme were references to a proposed scheme or schemes, and
  - (b) subsection (5)(a) were omitted.
- (9) If a local transport authority or authorities propose to make two or more schemes at the same time (whether at the same time as making a plan or in relation to an existing plan), subsection (5)(b) has effect as if references to the scheme were references to one of the schemes in question.
- (10) The Secretary of State may by regulations—
- (a) specify the descriptions of local services that are qualifying local services for the purposes of this section, and
  - (b) specify what constitutes a sufficient number of persons for the purposes of subsection (5)(a) or (b).
- (11) Regulations under subsection (10)(b) may, in particular—
- (a) require that a plan or scheme be objected to by such number of persons as, together, provide at least such proportion of the qualifying local services in the area in question as is specified in the regulations, in addition to being at least such proportion of the persons providing those services as is specified in the regulations, and
  - (b) make provision about determining the proportion of qualifying local services provided by an operator, including provision about the time by reference to which the proportion is to be determined.
- (12) In this section “the relevant day”, in relation to an enhanced partnership plan or scheme prepared by a local transport authority or authorities under subsection (1)(b), means the day before the authority or authorities send out a notice relating to that plan or scheme in accordance with subsection (1)(c).

### **138G Making of plans and schemes**

- (1) If, after complying with section 138F as regards a proposal to make an enhanced partnership plan and scheme, a local authority or authorities consider it appropriate to make the plan and scheme, they may make them as proposed or with modifications.
- (2) If the authority or authorities intend to make the plan and scheme with modifications of one or both of them, the authority or authorities must give notice of their intention to make the plan and scheme, with modifications, to the persons who are operators of qualifying local services in the area to which the plan relates on the relevant day.
- (3) A notice under subsection (2) must—
- (a) contain full details of the plan and scheme,
  - (b) state the effect of subsection (4), and
  - (c) state the period within which objections may be made (which may not be less than 28 days).
- (4) The authority or authorities may not make the plan and scheme with modifications if, within the period for objections stated in the notice under subsection (2)—



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- (a) a sufficient number of the persons who, on the relevant day, are operators of qualifying local services in the area to which the plan relates object to the plan, or
  - (b) a sufficient number of the persons who, on the relevant day, are operators of qualifying local services in the area to which the scheme relates object to the scheme.
- (5) Not later than 14 days after the date on which a local transport authority or authorities make an enhanced partnership plan and scheme, the authority or authorities must give notice of the making of the plan and scheme—
  - (a) in such manner as they consider appropriate for bringing it to the attention of persons in their area or combined area,
  - (b) to all operators of local services who would, in the opinion of the authority or authorities, be affected by the scheme, and
  - (c) to a traffic commissioner.
- (6) The notice must—
  - (a) contain full details of the plan and scheme or state where such details may be inspected, and
  - (b) if the plan or scheme made is a modified version of the plan or scheme that was proposed, state that it is a modified version.
- (7) If the proposal of a local transport authority or authorities is to make a scheme or schemes relating to an existing enhanced partnership plan, subsections (1) to (6) have effect as if—
  - (a) references to a plan and scheme were references to a scheme or schemes, and
  - (b) subsection (4)(a) were omitted.
- (8) If the proposal of a local transport authority or authorities is to make two or more schemes at the same time (whether at the same time as making a plan or in relation to an existing plan), subsection (4)(b) has effect as if references to the scheme were references to one of the schemes in question.
- (9) The Secretary of State may by regulations—
  - (a) specify the descriptions of local services that are qualifying local services for the purposes of this section, and
  - (b) specify what constitutes a sufficient number of persons for the purposes of subsection (4)(a) or (b).
- (10) Regulations under subsection (9)(b) may, in particular—
  - (a) require that a plan or scheme be objected to by such number of persons as, together, provide at least such proportion of the qualifying local services in the area in question as is specified in the regulations, in addition to being at least such proportion of the persons providing those services as is specified in the regulations, and
  - (b) make provision about determining the proportion of qualifying local services provided by an operator, including provision about the time by reference to which the proportion is to be determined.
- (11) In this section “the relevant day”, in relation to a plan or scheme that a local transport authority or authorities intend to make, means the day before the

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authority or authorities send out notices relating to that plan or scheme in accordance in subsection (2).

### **138H Content of scheme**

- (1) If a local transport authority or authorities make a scheme, the scheme must specify—
  - (a) the requirements imposed under it,
  - (b) the facilities (if any) to be provided under it by the authority or authorities,
  - (c) the measures (if any) to be taken under it by the authority or authorities,
  - (d) the provision (if any) about variation or revocation of the plan or scheme,
  - (e) the date on which it is to come into operation, and
  - (f) the period for which it is to remain in operation.
- (2) The scheme must also specify—
  - (a) if a requirement imposed under the scheme is to have effect as from a date after the scheme comes into operation, the date as from which it has effect,
  - (b) if any facilities 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,
  - (c) if any measures to be taken under the scheme as from a date after the scheme comes into operation, the date as from which they are to be so taken,
  - (d) if a condition under section 138E is to apply as from a date after the scheme comes into operation, the date as from which it applies, and
  - (e) if a condition under section 138E is to cease to apply as from a particular date, the date as from which it ceases to apply.
- (3) Subject to regulations under section 138P, the scheme may provide that—
  - (a) local services specified in it, or
  - (b) local services of a class specified in it,are to be excluded from the scheme.

### **138I Postponement of scheme or part of scheme**

- (1) If it appears to a local transport authority or authorities that have made an enhanced partnership scheme appropriate to do so, they may decide that any of the dates specified in subsection (3) are to be postponed by such period as they think fit.
- (2) A date may not be postponed under subsection (1) by a period or periods which in total exceed 12 months.
- (3) The dates are—
  - (a) the date on which the scheme is to come into operation,
  - (b) the date as from which any particular requirement is to be imposed under the scheme,

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- (c) the date as from which any particular facilities are to be provided under the scheme,
  - (d) the date as from which any particular measures are to be taken under the scheme, and
  - (e) the date as from which any particular condition under section 138E applies.
- (4) Before making such a decision they must consult all operators of local services who would, in their opinion, be affected by the scheme.
- (5) Not later than 14 days after the date on which any such decision is made, they must give notice of the making of the decision—
- (a) in such manner as they consider appropriate for bringing it to the attention of persons in their area or combined area,
  - (b) to all operators of local services who would, in their opinion, be affected by the scheme, and
  - (c) to a traffic commissioner.
- (6) The notice must include a statement of their reasons for the decision.

### **138J Effect of plans and schemes**

- (1) If an enhanced partnership scheme requires a local transport authority or authorities to provide particular facilities, they must—
- (a) provide each of the specified facilities not later than the date specified for its provision under the scheme (subject to section 138I), and
  - (b) continue to provide it throughout the remainder of the period for which the scheme is in operation.
- (2) Subsection (1) does not apply in relation to any period during which the authority or authorities are temporarily unable to provide the facilities because of circumstances beyond their control.
- (3) Subsection (1) does not apply in the case of the Secretary of State if the Secretary of State is unable to provide the facilities because of the variation or revocation of a traffic regulation order.
- (4) If an enhanced partnership scheme made by a local transport authority or authorities requires them to take particular measures, they must—
- (a) take each of the specified measures not later than the date specified for taking it under the scheme (subject to section 138I), and
  - (b) continue to take those measures throughout the remainder of the period for which the scheme is in operation.
- (5) Subsection (4) does not apply in relation to any period during which the authority or authorities are temporarily unable to take those measures because of circumstances beyond their control.
- (6) Subsection (4) does not apply in the case of the Secretary of State if the Secretary of State is unable to take the measures because of the variation or revocation of a traffic regulation order.
- (7) Subsection (8) applies if the enhanced partnership plan or scheme made by a local transport authority or authorities makes provision about—

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- (a) one or more reviews of the plan, or
  - (b) one or more reviews of the operation of the scheme.
- (8) The authority or authorities must secure that the review or each review—
- (a) is carried out in the manner specified in the plan or scheme, and
  - (b) is completed by the date specified in the plan or scheme as the date for completing that review.
- (9) If a requirement applies to a local service, the operator of the service must comply with that requirement.
- (10) Subsection (9) does not apply in relation to services which are excluded from the scheme because of any provision of the scheme made in accordance with section 138H(3).

### **138K Variation**

- (1) A local transport authority or authorities to whose area or combined area, or part of it, an enhanced partnership plan relates may vary the plan and any related enhanced partnership scheme.
- (2) An enhanced partnership plan or scheme may, in particular, be varied by changing the area to which the plan or scheme relates so that—
- (a) it includes the whole or a part of the area of another local transport authority, or
  - (b) it ceases to include any part of the area of a local transport authority.
- (3) An enhanced partnership plan or scheme may not be varied unless the authority or authorities have complied with the requirements in—
- (a) section 138L (preparation, notice and consultation), and
  - (b) section 138M(1) to (5) (making the variation).
- (4) An enhanced partnership scheme may not be varied unless the authority or authorities are satisfied that the scheme, as varied, will contribute to the implementation of—
- (a) the policies set out in the related enhanced partnership plan (or those policies as proposed to be varied, if the scheme and the policies in the plan are being varied at the same time), and
  - (b) their local transport policies.
- (5) An enhanced partnership scheme may not be varied unless the authority or authorities are satisfied that the scheme, as varied, will—
- (a) bring benefits to persons using local services in the whole or any part of the area to which the scheme relates by improving the quality or effectiveness of those services, or
  - (b) reduce or limit traffic congestion, noise or air pollution.
- (6) The references in subsections (1) and (3) to (5) and sections 138L and 138M to the local transport authority or authorities—
- (a) in relation to the variation of an enhanced partnership plan, or
  - (b) in relation to the variation of an enhanced partnership scheme, if the scheme is proposed to be varied at the same time as the related enhanced partnership plan is proposed to be varied,

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include a reference to a local transport authority to no part of whose area the plan relates but to whose area or part of it the plan would relate under a proposed variation.

- (7) Nothing in this section prevents an enhanced partnership scheme being varied, in accordance with the scheme, in such cases as are allowed by the scheme (see section 138E).
- (8) Before varying an enhanced partnership plan, a local transport authority must have regard to the desirability, in appropriate cases, of varying a plan so as to include in the area to which the plan relates any part of the area of one or more other local transport authorities.

### **138L Variation: preparation, notice and consultation**

- (1) If a local transport authority or authorities propose to vary an enhanced partnership plan or scheme, they must—
  - (a) give notice of their intention to prepare changes to the plan or scheme in such manner as they consider appropriate for bringing it to the attention of persons in their area or combined area,
  - (b) prepare the changes,
  - (c) give notice of the changes prepared to the persons who are operators of qualifying local services in the area to which the plan (or the plan as proposed to be varied) relates on the relevant day, and
  - (d) give notice of the proposal to vary the plan or scheme in such manner as they consider appropriate for bringing it to the attention of persons in their area or combined area.
- (2) A notice under subsection (1)(c) must—
  - (a) contain full details of the changes prepared,
  - (b) state the effect of subsection (5), and
  - (c) state the period within which objections may be made (which may not be less than 28 days).
- (3) A notice under subsection (1)(d) must—
  - (a) contain full details of the changes, or
  - (b) state where such details may be inspected.
- (4) The authority or authorities must—
  - (a) invite operators of qualifying local services to participate in the preparation of the changes before starting to prepare them, and
  - (b) invite any person who becomes an operator of a qualifying local service while the changes are being prepared to participate in their preparation.
- (5) A local transport authority or authorities may not give notice of a proposal under subsection (1)(d) if, within the period for objections given in the notice under subsection (1)(c)—
  - (a) a sufficient number of the persons who are operators of qualifying local services in the area to which the plan relates on the relevant day object to the changes prepared for the plan (if changes to a plan are prepared),  
or

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- (b) a sufficient number of the persons who are operators of qualifying local services in the area to which the scheme relates on the relevant day object to the changes prepared for the scheme (if changes to a scheme are prepared).
- (6) After giving notice of the proposal under subsection (1)(d), the authority or authorities must consult the Competition and Markets Authority.
  - (7) If a local authority or authorities propose to vary two or more enhanced partnership schemes at the same time, subsection (5)(b) has effect as if references to the scheme were references to one of the schemes in question.
  - (8) The Secretary of State may by regulations—
    - (a) specify the descriptions of local services that are qualifying local services for the purposes of this section, and
    - (b) specify what constitutes a sufficient number of persons for the purposes of subsection (5)(a) or (b).
  - (9) Regulations under subsection (8)(b) may, in particular—
    - (a) require that changes to a plan or scheme be objected to by such number of persons as, together, provide at least such proportion of the qualifying local services in the area in question as is specified in the regulations, in addition to being at least such proportion of the persons providing those services as is specified in the regulations, and
    - (b) make provision about determining the proportion of qualifying local services provided by an operator, including provision about the time by reference to which the proportion is to be determined.
  - (10) In this section “the relevant day”, in relation to changes to an enhanced partnership plan or scheme prepared by a local transport authority or authorities under subsection (1)(b), means the day before the authority or authorities send out a notice relating to that plan or scheme in accordance with subsection (1)(c).

### **138M Variation: making the variation**

- (1) This section applies if a local transport authority or authorities have complied with the requirements of section 138L as regards a proposal to vary an enhanced partnership plan or scheme.
- (2) If the authority or authorities consider it appropriate to vary the plan or scheme, they may vary the plan or scheme as proposed or with modifications.
- (3) Before varying the plan or scheme, the authorities must give notice of their intention to vary the plan or scheme, as proposed or with modifications, to persons who were operators of qualifying local services at the qualifying time.
- (4) The notice under subsection (3) must—
  - (a) contain full details of the variation or state where such details may be inspected,
  - (b) if the variation made is a modified version of the variation that was proposed, state that it is a modified version,
  - (c) state the effect of subsection (5), and

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- (d) specify the period within which persons who are operators of qualifying local services at the qualifying time may object to the proposed variation.
- (5) The authority or authorities may not vary the plan or scheme (with or without modifications) if a sufficient number of the persons who were operators of qualifying local services at the qualifying time object to the variation.
- (6) Not later than 14 days after the date on which the variation of the plan or scheme is made, the authority or authorities must give notice of the variation—
  - (a) in such manner as they consider appropriate for bringing it to the attention of persons in their area or combined area,
  - (b) to all operators of local services who would, in the opinion of the authority or authorities, be affected by it, and
  - (c) to a traffic commissioner.
- (7) The notice must—
  - (a) contain full details of the variation or state where such details may be inspected, and
  - (b) if the variation made is a modified version of the variation that was proposed, state that it is a modified version.
- (8) The Secretary of State may by regulations—
  - (a) specify the descriptions of local services that are qualifying local services for the purposes of this section,
  - (b) provide for the determination of the qualifying time for the purposes of this section,
  - (c) specify the minimum period which may be specified under subsection (4)(d),
  - (d) specify what constitutes a sufficient number of persons for the purposes of subsection (5), and
  - (e) specify how a person's objection is to be evidenced.
- (9) Regulations under subsection (8)(d) may, in particular—
  - (a) require that a proposed variation be objected to by such number of persons as, together, provide at least such proportion of the qualifying local services as is specified in the regulations, in addition to being at least such proportion of the persons providing those services as is specified in the regulations, and
  - (b) make provision about determining the proportion of qualifying local services provided by an operator, including provision about the time by reference to which the proportion is to be determined.

### **138N Variation: supplementary**

- (1) The relevant references to the authority or authorities in relation to an enhanced partnership scheme—
  - (a) include a traffic regulation authority if it has been varied so that it specifies traffic regulation facilities or measures, but
  - (b) do not include a traffic regulation authority if it has been varied so that it no longer specifies such facilities or measures.

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- (2) But if (although the scheme does not specify facilities or measures which are traffic regulation facilities or measures in relation to a traffic regulation authority) it would do by reason of a proposed variation, those references to the authority or authorities in relation to an enhanced partnership scheme (apart from the relevant references in section 138J) include that authority.
- (3) And if (although the scheme specifies facilities or measures which are traffic regulation facilities or measures in relation to a traffic regulation authority)—
- (a) the traffic regulation order, or (where more than one) each of the traffic regulation orders, required to be made by that authority for the provision of those facilities or measures has been revoked, and
  - (b) the scheme is proposed to be varied (but not so that it specifies other facilities or measures which are traffic regulation facilities or measures in relation to that authority),
- the relevant references to the authority or authorities in relation to an enhanced partnership scheme (apart from those in section 138J) do not include that authority.
- (4) For the purposes of this section the relevant references are those in—
- (a) section 138A(6) and (11),
  - (b) sections 138F to 138J,
  - (c) section 138K(1) and (3) to (5),
  - (d) sections 138L and 138M,
  - (e) section 138O, and
  - (f) paragraph 27(4) of Schedule 9 to the Road Traffic Regulation Act 1984.
- (5) Subsections (1) and (2) are not to be taken as affecting the area indicated by references in the provisions mentioned in subsection (4) to the authority's or authorities' area or combined area.
- (6) For the purposes of this section—
- (a) facilities are traffic regulation facilities, in relation to a traffic regulation authority and an enhanced partnership scheme, if that authority was required to be a maker of the scheme because it originally specified those facilities or would have been required to be a maker of it had it done so, and
  - (b) measures are traffic regulation measures, in relation to a traffic regulation authority and an enhanced partnership scheme, if that authority was required to be a maker of the scheme because it originally specified those measures or would have been required to be a maker of it had it done so.
- (7) In this section “traffic regulation authority” means—
- (a) a metropolitan district council, or
  - (b) the Secretary of State.

### **138O Revocation**

- (1) A local transport authority or authorities may, if they consider it appropriate to do so—



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- (a) revoke an enhanced partnership plan that relates to the whole or any part of their area or combined area, and
  - (b) revoke an enhanced partnership scheme relating to such a plan.
- (2) A local transport authority or authority may not—
  - (a) revoke an enhanced partnership plan without also revoking all enhanced partnership schemes relating to it, or
  - (b) revoke all enhanced partnership schemes relating to an enhanced partnership plan without also revoking the plan.
- (3) A local transport authority or authorities may not revoke an enhanced partnership plan or scheme unless they have complied with subsections (4) to (8).
- (4) A local transport authority or authorities must give notice of a proposal to revoke an enhanced partnership plan or scheme in such manner as they consider appropriate for bringing it to the attention of persons in their area or combined area.
- (5) After giving notice under subsection (4), the authority or authorities must consult—
  - (a) operators of qualifying local services,
  - (b) the Competition and Markets Authority, and
  - (c) such other persons as the authority or authorities think fit.
- (6) If, after consulting those persons, the authority or authorities wish to revoke the plan or scheme, they must give notice of their intention to revoke the plan or scheme to persons who were operators of qualifying local services at the qualifying time.
- (7) The notice under subsection (6) must—
  - (a) state the date on which the plan or scheme is to be revoked,
  - (b) state the authority's or authorities' reasons for revoking the plan or scheme,
  - (c) state the effect of subsection (8), and
  - (d) specify the period within which persons who are operators of qualifying local services at the qualifying time may object to the revocation.
- (8) The authority or authorities may not revoke the plan or scheme if a sufficient number of the persons who were operators of qualifying local services at the qualifying time object to the revocation of the plan or (as the case may be) the scheme.
- (9) Not later than 14 days after the date on which the plan or scheme is revoked, the authority or authorities must give notice of the revocation—
  - (a) in such manner as they consider appropriate for bringing it to the attention of persons in their area or combined area,
  - (b) to all operators of local services who would, in the opinion of the authority or authorities, be affected by the revocation, and
  - (c) to a traffic commissioner.

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- (10) Nothing in subsections (3) to (8) prevents an enhanced partnership scheme being revoked, in accordance with the scheme, in such cases as are allowed by the scheme (see section 138E).
- (11) The Secretary of State may by regulations—
- (a) specify the descriptions of local services that are qualifying local services for the purposes of this section,
  - (b) provide for the determination of the qualifying time for the purposes of this section,
  - (c) specify the minimum period which may be specified under subsection (7)(d),
  - (d) specify what constitutes a sufficient number of persons for the purposes of subsection (8), and
  - (e) specify how a person's objection is to be evidenced.
- (12) Regulations under subsection (11)(d) may, in particular—
- (a) require that the revocation of a plan or scheme be disagreed to by such number of persons as, together, provide at least such proportion of the qualifying local services as is specified in the regulations, in addition to being at least such proportion of the persons providing those services as is specified in the regulations, and
  - (b) make provision about determining the proportion of qualifying local services provided by an operator, including provision about the time by reference to which the proportion is to be determined.

### **138P Regulations about plans and schemes**

- (1) The Secretary of State may by regulations make further provision with respect to—
- (a) the procedure to be followed when making, varying or revoking enhanced partnership plans or schemes,
  - (b) the content or operation of schemes which include a requirement falling within section 138C(1),
  - (c) the local services or classes of local services which must be, or may be, excluded from schemes,
  - (d) the making of traffic regulation orders in connection with schemes, and
  - (e) such other incidental matters in connection with schemes as the Secretary of State thinks fit.
- (2) The regulations may in particular make provision with respect to—
- (a) giving notice of proposed schemes or proposed variations or revocations of enhanced partnership plans or schemes,
  - (b) objections to such proposals,
  - (c) modifications of such proposals,
  - (d) the form of plans, schemes or variations, and
  - (e) giving notice of plans or schemes which have been made or of the variation or revocation of plans or schemes.

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### **138Q Transitional provision about schemes**

- (1) The Secretary of State may by regulations make such transitional provision as the Secretary of State considers appropriate in connection with—
  - (a) the making of enhanced partnership plans and schemes,
  - (b) the coming into operation of provisions of enhanced partnership plans and schemes,
  - (c) the variation of enhanced partnership plans and schemes, and
  - (d) the revocation of enhanced partnership plans and schemes.
- (2) The regulations may in particular provide that in prescribed circumstances—
  - (a) any provision of sections 6 to 9 of the Transport Act 1985 (registration of local services), or of sections 89 to 92 of that Act (obligation to invite tenders for subsidised services etc), which would otherwise have effect is not to have effect or is to have effect with such modifications as may be prescribed, or
  - (b) any such provision which would not otherwise have effect is to have effect or is to have effect with such modifications as may be prescribed, in relation to the whole or any part of the area to which the scheme relates.
- (3) The regulations may in particular provide for the application of requirements imposed under section 138A(5)(b) to local services that were registered under section 6 of the Transport Act 1985 before the requirements came into force.
- (4) Regulations made by virtue of subsection (3) may in particular—
  - (a) make provision about recording requirements that apply to local services with the registered particulars of those local services;
  - (b) make provision requiring the local transport authority or authorities that made an enhanced partnership scheme to notify a traffic commissioner of the local services or the descriptions of local services to which each requirement specified in the scheme would apply, subject to such exceptions as may be prescribed;
  - (c) make provision for the cancellation of the registration of local services that could not be provided in accordance with requirements falling within section 138C(1);
  - (d) make provision about the determination by the local transport authority or authorities that made an enhanced partnership scheme of what local services may be registered under section 6 of the Transport Act 1985 in place of local services whose registrations are cancelled under paragraph (c), including provision for awarding contracts authorising the provision of local services or local services of particular descriptions;
  - (e) make provision as to the period during which the registration, or variation of registration, of local services is subject to provision under paragraph (d);
  - (f) make provision for cancellation under paragraph (c) to be revoked if prescribed conditions are satisfied, including conditions relating to the variation or cancellation under section 6 of the Transport Act 1985 of the registration of one or more of the local services affected;

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- (g) make provision for the time at which cancellation under paragraph (c) becomes effective to be postponed in prescribed circumstances;
  - (h) make provision for appeals against—
    - (i) decisions to record or not to record requirements under paragraph (a);
    - (ii) decisions to cancel registrations of local services under paragraph (c).
- (5) Regulations made by virtue of subsection (4)(h) may in particular include provision about—
- (a) to whom an appeal may be made;
  - (b) how an appeal may be made and dealt with;
  - (c) further appeals;
  - (d) who may be parties to an appeal or further appeal.
- (6) In this section “registered particulars”, in relation to a local service, means the particulars of the service required to be registered under section 6 of the Transport Act 1985.

### **138R Guidance about plans and schemes**

- (1) The Secretary of State may issue guidance concerning the carrying out by local transport authorities and metropolitan district councils of their functions under this Part in relation to enhanced partnership plans and schemes.
- (2) Those authorities and councils must have regard to any such guidance.

### **138S Application of TUPE**

- (1) Subsection (3) applies to a situation in which—
  - (a) on the coming into force of an awarded contract, one or more local services cease to be provided by a person (the “former operator”) in the area to which the relevant enhanced partnership scheme relates because the cancellation of the registration of the service or services under a relevant provision becomes effective, and
  - (b) at the same time, a person (the “new operator”) begins to provide one or more local services in that area by virtue of that awarded contract.
- (2) Subsection (3) also applies to a situation in which—
  - (a) one or more local services which, on the coming into force of an awarded contract, a person (the “former operator”) would be required to cease providing in the area mentioned in subsection (1)(a) of this section because the cancellation of the registration of the service or services under a relevant provision would have become effective, cease to be provided by the former operator before the coming into force of that awarded contract, and
  - (b) at the same time, a person (the “new operator”) begins to provide one or more local services in that area under an agreement which the authority or authorities operating the relevant enhanced partnership scheme entered into by reason of the cessation of the local service or services referred to in paragraph (a).

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*Changes to legislation: There are currently no known outstanding effects for the Bus Services Act 2017, Section 9. (See end of Document for details)*

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- (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—
  - (a) sections 257 and 258 of the Pensions Act 2004, and
  - (b) 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 an enhanced partnership scheme relates to provide the authority or authorities operating 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 operating an enhanced partnership 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 operating an enhanced partnership scheme to ensure that any awarded contract entered into with a person because of the scheme, or any other agreement made with a person 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

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- 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 enhanced partnership 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 an enhanced partnership scheme, means—
- (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

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(ii) as a result of the variation of the scheme, those services became subject to the scheme,

the date on which that variation was made;

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

(11) In this section—

“awarded contract” means a contract authorising a person to provide a local service that is awarded in accordance with—

- (a) regulations made by virtue of section 6E(6) of the Transport Act 1985 (provision for services to be allocated), or
- (b) regulations made by virtue of section 138Q(4)(d);

and an awarded contract is to be regarded as in force when the authority to provide a service has effect;

“relevant provision” means—

- (a) section 6E(2) of the Transport Act 1985 (cancellation where incompatibility with a requirement falling within section 138C(1)), or
- (b) regulations made by virtue of section 138Q(4)(c).”

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**Commencement Information**

**II** S. 9 in force at Royal Assent for certain purposes, otherwise in force at 27.6.2017, see s. 26(3)

**Changes to legislation:**

There are currently no known outstanding effects for the Bus Services Act 2017, Section 9.