
STATUTORY INSTRUMENTS

1973 No. 1728

The South Yorkshire Passenger Transport Area (Establishment of Executive) Order 1973

Citation and commencement

1. This Order may be cited as the South Yorkshire Passenger Transport Area (Establishment of Executive) Order 1973, and shall come into operation on 19th November 1973.

Interpretation

2.—(1) In this Order, unless the context otherwise requires—

“the Act of 1968” means the Transport Act 1968;

“the Act of 1972” means the Local Government Act 1972;

“the Authority” means the County Council of South Yorkshire who by virtue of section 202(1) of the Act of 1972 will be the Passenger Transport Authority for the passenger transport area which consists of the County of South Yorkshire;

“the designated area” means the County of South Yorkshire which by virtue of section 202(1) of the Act of 1972 will become a passenger transport area for the purposes of Part II of the Act of 1968;

“the Executive” means the Passenger Transport Executive for the designated area established in accordance with this Order;

“operating authority” means an existing local authority specified in column (1) of the Schedule to this Order and, when used in relation to a transferred undertaking, means the existing local authority whose name in that column is opposite to the description of that undertaking in column (2) of that Schedule;

“public service vehicle” has the same meaning as in the Road Traffic Act 1960;

“statutory provision” means a provision contained in, or in an instrument made under, an Act;

“successor authority”, in relation to a transferred undertaking, means the council of the new district which comprises the whole or the major part of the area within which immediately before 1st April 1974 the transferred undertaking was being carried on;

“transferred undertaking” means a road passenger transport undertaking specified in column (2) of the Schedule to this Order (being an undertaking to be transferred to the Executive on 1st April 1974 by Order under section 254 of the Act of 1972) and, when used in relation to an operating authority, means the undertaking described in column (2) of that Schedule opposite to the name of that authority in column (1) of that Schedule.

(2) Except where the context otherwise requires, any reference in this Order to any enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment.

(3) The Interpretation Act 1889 shall apply for the interpretation of this Order as it applies for the interpretation of any Act of Parliament.

Establishment of the Executive

3.—(1) The Authority shall establish a Passenger Transport Executive for the designated area and such Executive shall consist of—

- (a) a Director General to be appointed (subject to the provisions of Part II of Schedule 5 to the Act of 1968) by the Authority, and
- (b) not less than two nor more than eight other members to be appointed (subject as aforesaid) by the Authority after consultation with the Director General.

(2) The Executive shall be established on such date as may be fixed by the Authority, being the earliest practicable date after the Director General and not less than two other members of the Executive have been appointed as aforesaid, and the Authority shall cause notice of the establishment of the Executive on that date to be published in such local newspapers circulating in the designated area as they may think appropriate for informing persons appearing to them to be likely to be concerned.

(3) As soon as may be after their establishment as aforesaid the Executive shall appoint a Secretary.

Proceedings of the Executive

4.—(1) The application of the seal of the Executive shall be authenticated by the signature of the Secretary of the Executive or by some other person authorised by the Executive, either generally or specially, to act for that purpose.

(2) The provisions of Part VI of Schedule 12 to the Act of 1972 (which provide as to the conduct of business at meetings) shall apply to the Executive as if the Executive were a local authority and as if for the references therein to that Act there were substituted references to this Order, but nothing in those provisions shall derogate from the power of the Executive to delegate to their Director General under Article 7 of this Order.

(3) The Executive may fix their quorum and may, subject to the foregoing provisions of this Article, regulate their own procedure.

Application to Executive of certain enactments relating to local authorities

5.—(1) The provisions of sections 94 to 98 and 105 of the Act of 1972 (which relate to the disability of members of local authorities for taking part in the consideration or discussion of, or for voting on, any question with respect to contracts, proposed contracts or other matters in which they have a pecuniary interest) shall apply to members of the Executive or of any committee or sub-committee of the Executive as they apply to members, of local authorities or of any committees or sub-committees of such authorities, but so that in such application the said provisions shall have effect as if—

- (a) they referred only to contracts and proposed contracts and did not extend to other matters,
- (b) subsection (3) was omitted from section 94 and subsections (1) to (3) were omitted from section 97 of the said Act of 1972, and
- (c) in section 96 of the Act of 1972 there were substituted for references to the proper officer of the authority references to the Secretary of the Executive.

(2) Section 117 of the Act of 1972 (which relates to the disclosure by officers of local authorities of their interest in contracts or proposed contracts) shall apply in relation to officers and servants of the Executive as it applies in relation to officers and servants of local authorities.

(3) Section 140 of the Act of 1972 (which relates to insurance by local authorities against accidents to members) shall apply to the Executive as it applies to a local authority.

(4) Section 223 of the Act of 1972 (which relates to the appearance of local authorities in legal proceedings) and paragraph 20 of Schedule 13 to that Act (which relieves lenders from making certain enquiries) shall apply in relation to the Executive as they apply in relation to a local authority.

(5) Section 144(2)(a) of the Road Traffic Act 1972 (which provides that the requirements of section 143 of that Act as to users of motor vehicles being insured or secured against third party risks are not to apply to a vehicle owned by any such local authority as is mentioned in the said subsection (2)(a)) shall apply to a vehicle owned by the Executive, or by any subsidiary of the Executive, as it applies to a vehicle owned by any local authority so mentioned.

Appointment of Committees by the Executive

6.—(1) The Executive may appoint committees for any such purpose as in their opinion would be better regulated and managed by means of a committee and, except as provided in paragraph (2) of this Article, any such committee shall consist wholly of members of the Executive.

(2) Where a committee is appointed by the Executive for the exercise of functions which are advisory only, the committee may consist wholly or partly of persons who are not members of the Executive.

(3) The Executive may delegate to any committee appointed by them, with or without restrictions or conditions as they think fit, the exercise of any of their functions excepted their power to borrow money.

(4) The Executive may make rules with respect to the meetings and proceedings of any committee appointed by them (including quorum, place of meeting, notices to be given at meetings and the appointment of a Chairman or Vice-Chairman), but subject to any rules so made any such committee may regulate their own procedure.

Delegation of functions to the Director General of the Executive

7. The Executive may delegate to their Director General, subject to such restrictions or conditions as they think fit, the exercise of any functions of the Executive which under Article 6 of this Order may be delegated by them to a committee.

Validity of Acts of the Executive

8. The validity of anything done by the Executive or any committee thereof shall not be affected by any vacancy in their membership or by any defect in the appointment, or the qualification for appointment, of the Director General of the Executive or of any other member of the Executive, or of any member of any such committee.

Authentication of documents

9. Every document purporting to be an instrument issued by the Executive and to be sealed with the seal of the Executive and authenticated in accordance with the provisions of Article 4 hereof, or to be signed on behalf of the Executive by their Secretary or by some other person authorised by them, either generally or specially, to act for that purpose shall be received in evidence and be deemed to be such a document without further proof unless the contrary is proved.

Transfer of power and duties

10.—(1) Subject to paragraph (2) of this Article and to Article 12 below, all the powers and duties which immediately before 1st April 1974 were the powers and duties conferred or imposed upon an operating authority by or under any Act for the purposes of or in connection with a transferred undertaking shall on that date be transferred to, and become the powers and duties of, the Executive.

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(2) Paragraph (1) above shall not apply in relation to the powers and duties of an operating authority as respects the provision of superannuation or other pension benefits for or in respect of persons who are or have been employed by them.

Modification of statutory provisions

11.—(1) Subject to the provisions of this Article and of Article 12 below, any statutory provision which confers or imposes, or which otherwise relates to, any such power or duty as is transferred to the Executive under Article 10 above shall have effect, as respects anything falling to be done on or after 1st April 1974, as if any reference therein (however worded and whether expressed or implied) to the operating authority were constructed—

- (a) in a case where the statutory provision relates solely to the transferred undertaking, as a reference to the Executive, and
- (b) in a case where the statutory provision relates to the transferred undertaking and to other activities of the operating authority, as including a reference to the Executive.

(2) Where by reason of this Order any power conferred by a local statutory provision to make byelaws or other regulations in relation to a transferred undertaking is transferred to the Executive, any byelaws or regulations made in exercise of that power and in force immediately before 1st April 1974 shall have effect on and after that date as if they had been made by the Executive.

(3) No local statutory provision with respect to the financial duties, the application of revenue, the borrowing powers of the accounts of the operating authority in relation to a transferred undertaking shall apply to the Executive, and no local statutory provision shall have effect so as to require the Executive to keep separate accounts or records for each transferred undertaking, or to use particular facilities or assets for the purpose only of a particular transferred undertaking, or otherwise to retain a transferred undertaking as a separate undertaking.

(4) No local statutory provision which immediately before 1st April 1974 has effect as respects a transferred undertaking so as to—

- (a) impose a prohibition on the manufacture of vehicles by the operating authority, or
- (b) prohibit or restrict the operation by the operating authority of public service vehicles on roads outside the area of that authority, or require the consent of the Secretary of State, or of the relevant local or highway authority to, or to the manner of, such operation, or provide for the termination of such operation in certain events, or
- (c) require the operating authority to make to the highway authority for any road on which there is being, or is to be, operated a service provided by the transferred undertaking, a contribution towards the cost of the maintenance, adaptation or improvement of that road so that it can be used or prepared for use by the service in question, or
- (d) prohibit the carriage of goods on vehicles of that undertaking, or
- (e) limit the discretion of the operating authority as to the fares or rates which they may charge, or as to any other charges which they may demand, for the use of any service or facility provided by the transferred undertaking (whether by specifying, or providing for specifying, the fares, rates or charges, or by fixing, or providing for fixing, maximum fares, rates or charges, or otherwise),

shall apply to the Executive, and no local statutory provision which in any other way limits the manner or extent of the operation of a transferred undertaking shall have effect on and after 1st April 1974 so as to prevent or restrict the exercise by the Executive of the powers, or the performance by them of the duties, conferred or imposed on them by Part II of the Act of 1968, but nothing in this paragraph shall—

- (i) affect the application (subject to section 19 of the Act of 1968) of Part III of the Road Traffic Act 1960 or of any condition attached to a road service licence granted under that Act, or

- (ii) affect the application of any order made, or having effect as if made, under the Road Traffic Regulation Act 1967, or the application of any other local statutory provision of a similar nature, which prohibits, restricts or regulates the use of any road by all vehicles or by all vehicles of any particular class or description, or
 - (iii) entitle the Executive to disregard a prohibition or restriction on the use of a particular route by public service vehicles of a transferred undertaking in a case where the prohibition or restriction was specifically imposed for the protection of a particular operator of public service vehicles (not being an operating authority) named in the statutory provision imposing the prohibition or restriction, and that operator or a successor in title of his continues to operate such vehicles on that route on and after 1st April 1974, or
 - (iv) entitle the Executive to disregard a prohibition on the use of a particular highway or the highways in a particular locality, being a highway or highways which are not maintainable at the public expense by a highway authority, by public service vehicles of a transferred undertaking, before obtaining the consent of the person (not being a highway authority) named in the statutory provision imposing the prohibition as the person whose prior consent to such use is requisite.
- (5) Where any local statutory provision, which immediately before 1st April 1974 has effect as respects a transferred undertaking so as to empower the operating authority—
- (a) to provide and maintain in any highway which is comprised in the route of public service vehicles, or on any land abutting, on such a highway, shelters or other accommodation at stopping places on the route for the use of persons intending to travel on such vehicles, or
 - (b) to erect and maintain in any such highway barriers or posts for the regulation of persons waiting to enter public service vehicles,

has effect on and after that date so as to empower the Executive to provide and maintain such shelters or other accommodation or to erect and maintain such barriers or posts as aforesaid, then the provisions of sections 5 and 6 of the Local Government (Miscellaneous Provisions) Act 1953 (which relate to consents to the exercise of powers to provide omnibus shelters and contain supplementary provisions as to such shelters) shall—

- (i) apply in relation to any exercise by the Executive of the power under the local statutory provision in question as they apply in relation to the exercise by a local authority of the powers conferred by section 4 of the said Act of 1953, and
 - (ii) have effect as respects anything falling to be done on or after 1st April 1974 in substitution for so much (if any) of that local statutory provision as relates to the matters provided for in the said sections 5 and 6.
- (6) Any local statutory provision which immediately before 1st April 1974 has effect as respects a transferred undertaking so as to empower the operating authority to place on or attach to posts or structures on or in the highway signs, directions or notices relating to the services provided by the undertaking shall have effect on and after that date so as to empower the Executive to place or attach signs, directions or notices relating to any of the services provided by them on or to such posts or structures belonging to the council of the county or the district in which they are situated as well as to other persons, but the Executive shall not exercise such power to place or attach any sign, direction or notice on or to a post or structure without first obtaining the consent of the person to whom the post or structure belongs.
- (7) No local statutory provision shall by virtue of this Article apply to any area to which it did not apply immediately before 1st April 1974.

Travel concessions

12.—(1) Where immediately before 1st April 1974 there are in operation arrangements made by an operating authority for the granting of travel concessions under the Travel Concessions Acts

1955 and 1964⁽¹⁾ to any category of qualified persons travelling on the public service vehicles of the transferred undertaking on any of the routes to which those vehicles then run, then, notwithstanding the provisions of this Order and notwithstanding the transfer of that undertaking to the Executive, on and after 1st April 1974—

- (a) the successor authority shall have power under those Acts to defray out of their general rate fund, and
- (b) any other local authority shall have power under section 138(2) of the Act of 1968 to contribute to,

the cost of such travel concessions to that category of qualified persons travelling on the public service vehicles of the Executive on that route.

(2) For the purpose of such travel concessions as are mentioned in paragraph (1) above, on and after 1st April 1974—

- (a) the Travel Concessions Acts 1955 and 1964 shall have effect in relation to the successor authority as if—
 - (i) the successor authority were operating a public service vehicle undertaking and the public service vehicles of the Executive running on the route in question were being run by the successor authority,
 - (ii) any reference in those Acts to arrangements for granting travel concessions included a reference to arrangements with the Executive for the grant by the Executive of travel concessions and any reference in those Act to the grant of travel concessions by a local authority included a reference to the grant of travel concessions by the Executive in pursuance of such arrangements, and
 - (iii) the reference in section 1(5) of the Public Service Vehicles (Travel Concessions) Act 1955 to transferring sums to the credit of the local authority's transport undertaking included a reference to paying such sums to the Executive, and
- (b) section 138(2) of the Act of 1968 shall have effect in relation to any other local authority, and section 1(7) of the Public Service Vehicles (Travel Concessions) Act 1955 shall have effect in relation to the Executive, as if the Executive were a local authority.

(3) Any such arrangements as are referred to in paragraph (1) above which are in operation immediately before 1st April 1974 as respects a transferred undertaking shall have effect on that date as an agreement between the successor authority and the Executive whereby, until 31st March 1975 or such earlier date as the successor authority and the Executive otherwise agree, the Executive are required to grant the travel concessions to the category or categories of qualified persons travelling on the Executive's public service vehicles running on the route or routes to which the said arrangements relate and the successor authority are required to pay to the Executive in respect of the cost of those concessions the sum which would have fallen to the borne by the successor authority's general rate fund if the transferred undertaking had not been transferred to the Executive but had vested in the successor authority and if that authority had resolved to defray the cost of those concessions in the same manner and on the same basis as the operating authority were defraying them during the period between 1st April 1973 and 1st April 1974.

(4) Nothing in this Article shall entitle a successor authority to defray out of their general rate fund, or any other local authority to contribute to, the cost of travel concessions by the Executive to other categories of qualified persons, or as respects other routes, than those to which the arrangements which are referred to in paragraph (1) above relate, but this paragraph shall be without prejudice to section 138(1) of the Act of 1968.

(5) In this Article the expressions “local authority” “public service vehicle”, “qualified persons” and “travel concessions” have the same meaning as in the Travel Concessions Acts 1955 and 1964.

(1) 1955 c. 26; 1964 c. 95.

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Signed by authority of the Secretary of State.

17th October 1973

John Peyton
Minister for Transport Industries
Department of the Environment