



Transport (Scotland) Act 2001

2001 asp 2

PART 2

BUS SERVICES

[^{F1}CHAPTER 2]

[^{F1}LOCAL SERVICES FRANCHISES]

Miscellaneous

41 Bus User Complaints Tribunal

- (1) The Scottish Ministers may by regulations establish a tribunal to be known as the Bus User Complaints Tribunal (referred to in this section as the “Tribunal”) for the purpose of determining any written complaint made by or on behalf of any individual—
 - (a) about the manner in which a relevant complaint has been dealt with; or
 - (b) appealing against a decision made on a relevant complaint.
- (2) Any Tribunal established by virtue of subsection (1) above shall consist of—
 - (a) a convener; and
 - (b) two other members,appointed by the Scottish Ministers.
- (3) Regulations under subsection (1) above may in particular make provision for or in connection with—
 - (a) the form of written complaints and the time within which they may be submitted for determination by the Tribunal;
 - (b) the procedure to be followed by the Tribunal in determining complaints;
 - (c) the matters to which the Tribunal shall have regard in determining complaints;
 - (d) the powers of the Tribunal on making determinations (including, without prejudice to the generality of this paragraph, power requiring the payment of compensation);
 - (e) the tenure of office of members of the Tribunal;

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- (f) the payment of remuneration and allowances to members of the Tribunal;
 - (g) the making of reports to the Scottish Ministers on such matters, and at such times, as may be specified in the regulations;
 - (h) requiring the Scottish Ministers to lay before the Scottish Parliament copies of any reports made under paragraph (g) above;
 - (i) the making of reports to the traffic commissioner on such matters, and at such times, as may be specified in the regulations;
 - (j) appeals from determinations of the Tribunal;
 - (k) such other matters as the Scottish Ministers consider necessary or expedient for the purpose of enabling the Tribunal to perform its functions.
- (4) Where a Tribunal is established by virtue of subsection (1) above, the traffic commissioner shall—
- (a) provide, or make available, to the Tribunal such staff as the Scottish Ministers consider necessary;
 - (b) pay—
 - (i) any remuneration and allowances due to members of the Tribunal or staff of the Tribunal; and
 - (ii) any other expenses relating to the establishment or operation of the Tribunal; and
 - (c) provide the Tribunal with such other assistance as it may reasonably request for the purposes of performing its functions.
- (5) Any compensation payable by virtue of subsection (3)(d) above shall be recoverable as a civil debt.
- (6) The Scottish Ministers shall pay to the traffic commissioner such amount as is agreed between them to be appropriate to reimburse any expenditure incurred by the commissioner by virtue of subsection (4) above.
- (7) In subsection (1) above “relevant complaint” means any written complaint made by or on behalf of any individual to an operator of [^{F1}bus] services which relates to the operation of any [^{F1}bus] service operated by such operator.
- [^{F2}(8) In subsection (7) above, “bus service” means—
- (a) a local bus service; or
 - (b) a service which—
 - (i) uses one or more public service vehicles for the carriage of passengers by road at separate fares;
 - (ii) operates between places at least one of which is in Scotland; and
 - (iii) is not a local service.]

Textual Amendments

- F1** Word in s. 41(7) substituted (10.10.2005) by Transport (Scotland) Act 2005 (asp 12), ss. 50(a), 54(2); S.S.I. 2005/454, art. 2, Sch. 2
- F2** S. 41(8) inserted (10.10.2005) by Transport (Scotland) Act 2005 (asp 12), ss. 50(b), 54(2); S.S.I. 2005/454, art. 2, Sch. 2

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42 Traffic regulation conditions to reduce or limit noise or air pollution

In subsection (4) of section 7 of the 1985 Act (reasons for which traffic regulation conditions may be determined)—

- (a) the word “or” immediately after paragraph (a) is repealed; and
- (b) after paragraph (b) there shall be inserted “; or
- (c) reduce or limit noise or air pollution.”.

43 Power to obtain information about local services

- (1) A local transport authority may, in connection with the formulation of their relevant general policies, require an operator of local services to provide them with any information relating to the matters mentioned in subsection (2) below which is in the possession or control of the operator; and the operator shall comply with any such requirement.
- (2) The matters are—
 - (a) the total number of journeys undertaken by passengers on the local services operated by the operator in the authority’s area or any part of such area;
 - (b) the structure of fares for those journeys; and
 - (c) the total distance covered by vehicles used by the operator in operating those local services.
- (3) An operator may be required to provide information under this section in any form in which, having regard to the manner in which the information is kept, it is reasonable to expect the operator to provide it.
- (4) Subject to subsection (5) below, no information which—
 - (a) has been provided to a local transport authority under this section, or provided together with information so provided; and
 - (b) relates to the affairs of an individual or to a particular business,shall be disclosed by such authority during the lifetime of the individual or while the business continues to be carried on.
- (5) Subsection (4) above does not apply to a disclosure—
 - (a) made with the consent of the individual or the person for the time being carrying on the business;
 - (b) of information provided by virtue of section 10(3) or 24(3) of this Act;
 - (c) made in connection with the investigation of crime or for the purposes of criminal proceedings;
 - (d) made for the purposes of civil proceedings brought by virtue of this Act or the 1985 Act;
 - (e) made in order to comply with the order of a court or tribunal; or
 - (f) made in respect of a local service—
 - (i) if the operator of such service has given notice in writing to the local transport authority or the traffic commissioner of the operator’s intention to cease operating such service from a date specified in the notice; or
 - (ii) if, having failed to provide notice such as is mentioned in subparagraph (i) above, such operator has ceased to operate such service.

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- [^{F3}(5A) For the avoidance of doubt, subsection (5)(f) does not apply if (or to the extent that) the operator was also required to provide the information by the local transport authority as an affected authority under section 6ZA(2) of the 1985 Act (provision of service information when varying or cancelling registration).]
- (6) A local transport authority who, without reasonable excuse, disclose information in contravention of subsection (4) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) Where an offence under subsection (6) above committed by a local transport authority is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a person employed by the authority, the person as well as the authority is guilty of the offence and liable to be proceeded against and punished accordingly.

Textual Amendments

- F3** S. 43(5A) inserted (28.11.2022) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), **ss. 39(3)**, 130(2) (with s. 126); [S.S.I. 2022/332](#), reg. 2, sch.

44 Civil penalties for bus lane contraventions

- (1) The Scottish Ministers may by regulations make provision for or in connection with—
- (a) the imposition by approved local authorities of charges in respect of bus lane contraventions; and
 - (b) the payment of such charges.
- (2) An authority is an approved local authority if—
- (a) an order designating the whole or any part of their area has been made under paragraph 1(1)(d) or 2(1)(c) of Schedule 3 to the Road Traffic Act 1991 (c.40) (permitted and special parking areas outside London); and
 - (b) the Scottish Ministers have made an order specifying them as an approved local authority for the purposes of this section.
- (3) A bus lane contravention is a contravention of any such provision of—
- (a) a traffic regulation order;
 - (b) an experimental traffic order; or
 - (c) a temporary traffic restriction order,
- as relates to the use of an area of road which is or forms part of a bus lane.
- (4) For the purposes of subsection (3) above, an area of road is or forms part of a bus lane if the order in question provides that it may be used—
- (a) only by buses; or
 - (b) only by buses and some other class or classes of traffic specified in the order.
- (5) Regulations under subsection (1) above shall include provision—
- (a) for the setting of the rates of charges (which may include provision for surcharges or discounts) by approved local authorities;
 - (b) that any rates set by virtue of paragraph (a) above shall be effective only if they have been approved by the Scottish Ministers;
 - (c) specifying that any charge shall be paid—

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- (i) by the registered keeper of the motor vehicle; or
 - (ii) in such circumstances as may be specified in the regulations, by such other person as may be so specified;
 - (d) permitting the imposition of a charge only on the basis of a record produced by an approved device;
 - (e) securing that a charge in respect of a bus lane contravention shall not require to be paid, or shall be refunded, where—
 - (i) the contravention is the subject of criminal proceedings; or
 - (ii) a fixed penalty notice has been given in respect of the contravention;
 - (f) that any sums paid by way of charges to an approved local authority shall be available only for application by such authority for the purpose of directly or indirectly facilitating the achievement of policies in such authority’s local transport strategy.
- (6) Regulations under subsection (1) above may—
 - (a) specify exemptions from charges; and
 - (b) make provision about the keeping of accounts, and the preparation and publication of statements of account, relating to sums paid by way of charges.
- (7) The Scottish Ministers may make regulations about the notification, adjudication and enforcement of charges.
- (8) Regulations under subsection (7) above may include—
 - (a) provision creating criminal offences to be triable summarily and punishable with a fine not exceeding level 5 on the standard scale or such lower amount as may be prescribed by the regulations; and
 - (b) provision for or in connection with permitting sufficient evidence of a fact to be given by the production of a record produced by an approved device with a certificate as to the circumstances in which the record was produced,but may not confer power to stop motor vehicles.
- (9) In this section—
 - “approved device” means a device of a description specified in an order made for the purposes of this section by the Scottish Ministers;
 - “experimental traffic order” means an order under section 9 of the Road Traffic Regulation Act 1984 (c.27);
 - “fixed penalty notice” has the same meaning as in Part III of the Road Traffic Offenders Act 1988 (c.53); and
 - “temporary traffic restriction order” means an order under section 14 or 16A of the Road Traffic Regulation Act 1984 (c.27).

45 Registered services: minimum period of operation

In section 6 of the 1985 Act (registration of local services)—

- (a) in subsection (3), for the words “subsection (2) above” there shall be substituted “this section”; and
- (b) after subsection (8) there shall be inserted—
 - “(8A) Where a service is registered under this section or, as the case may be, a registration is varied under this section, the operator of the service

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which has been registered, or in respect of which the registration has been varied, shall provide that service for a period of at least 90 days (or, as the case may be, such other period as the traffic commissioner may specify) beginning with the day on which the period of notice expires or, as the case may be, the variation becomes effective.”.

46 Power to restrict dates on which scheduled timings of local services may be varied

In section 6 of the 1985 Act (registration of local services)—

(a) after paragraph (d) of subsection (9) there shall be inserted—

“(da) subject to subsection (10) below, specifying dates as the only dates on which the operator of a local service in the area (or areas) of such local authority (or authorities) as may be specified in the regulations may vary a registration in so far as it relates to the scheduled times of the local service in respect of which the registration is made;”;

and

(b) after subsection (9) there shall be inserted—

“(10) Regulations making provision such as is mentioned in subsection (9) (da) above may not—

(a) have effect for a period of more than three years;

(b) specify more than four dates in a calendar year as dates on which a registration may be varied.”.

47 Co-operation

- (1) In considering whether to make a [^{F4}partnership scheme][^{F5}or franchising framework] or ticketing scheme a local transport authority shall have regard to the desirability, in appropriate cases, of making a [^{F6}scheme or framework] jointly with another authority.
- (2) A local transport authority shall, in determining their opinion under paragraph (a) of section 35 of this Act, have regard to the desirability, in appropriate cases, of carrying out their functions under sections 33 and 34 of this Act jointly with another authority (whether as respects the whole or any part of their combined area).
- (3) Local transport authorities shall in carrying out their functions—
 - (a) under this Part of this Act in relation to [^{F7}partnership schemes][^{F8}and franchising frameworks] and ticketing schemes; and
 - (b) under sections 33 and 34 of this Act,
 co-operate with one another.

Textual Amendments

F4 Words in s. 47(1) substituted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), [sch. para. 3\(5\)\(a\)\(i\)](#) (with s. 126); S.S.I. 2023/250, sch.

F5 Words in s. 47(1) substituted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), [sch. para. 3\(5\)\(a\)\(ii\)](#) (with s. 126); S.S.I. 2023/250, sch.

F6 Words in s. 47(1) substituted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), [sch. para. 3\(5\)\(a\)\(iii\)](#) (with s. 126); S.S.I. 2023/250, sch.

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- F7** Words in s. 47(3)(a) substituted (4.12.2023) by Transport (Scotland) Act 2019 (asp 17), s. 130(2), **sch. para. 3(5)(b)(i)** (with s. 126); S.S.I. 2023/250, sch.
- F8** Words in s. 47(3)(a) substituted (4.12.2023) by Transport (Scotland) Act 2019 (asp 17), s. 130(2), **sch. para. 3(5)(b)(ii)** (with s. 126); S.S.I. 2023/250, sch.

Modifications etc. (not altering text)

- C1** S. 47: transfer of functions (1.11.2006) by Transfer of Functions to the Shetland Transport Partnership Order 2006 (S.S.I. 2006/527), arts. 1, 3, **Sch. 1** (with art. 5)
- C2** S. 47: transfer of functions (7.11.2006) by Transfer of Functions to the South-West of Scotland Transport Partnership Order 2006 (S.S.I. 2006/538), art. 1, **Sch. 1** (with art. 5)

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