



Transport (Scotland) Act 2019

2019 asp 17

PART 3

BUS SERVICES

Bus services improvement partnerships

36 Procedures for partnership plans and schemes

- (1) The Transport (Scotland) Act 2001 is amended as follows.
- (2) Before schedule 1 insert—

“SCHEDULE A1 (introduced by section 3A)

BUS SERVICES IMPROVEMENT PARTNERSHIP PLANS AND SCHEMES: PROCEDURES

PART 1

MAKING

Meaning of partnership proposal

- 1 For the purposes of this Part—
 - (a) a reference to a partnership proposal is a reference to a proposal by a local transport authority to make—
 - (i) a partnership plan and scheme (or schemes), or
 - (ii) a partnership scheme (or schemes) in relation to an existing partnership plan,
 - (b) a reference to the area of a partnership proposal is—

- (i) in a case where the proposal is to make a partnership plan and scheme, a reference to the area to which the proposed plan relates,
- (ii) in a case where the proposal is to make a new scheme in relation to an existing plan, a reference to the area to which that plan relates.

Preliminary notice

- 2 Where a local transport authority intend to prepare a partnership proposal, they must give notice of their intention in such manner as they consider appropriate for bringing the notice to the attention of persons in their area.

Preparation

- 3 After giving notice under paragraph 2, the local transport authority must—
- (a) invite every person who is an operator of a qualifying local service in the area to which the partnership proposal relates (including those who, for whatever reason, become such an operator during the period when the proposal is being prepared) to participate in the preparation of the partnership proposal, and
 - (b) in collaboration with such invited persons as wish to participate, prepare the partnership proposal for consultation.

Notice of proposal and period for objections

- 4 (1) The local transport authority must give notice of the partnership proposal prepared under paragraph 3 to persons who, on the relevant day, are operators of qualifying local services in the area of the partnership proposal.
- (2) A notice under this paragraph must—
- (a) contain full details of the partnership proposal,
 - (b) contain a statement advising of the effect of paragraph 5,
 - (c) state the period within which objections may be made (which may not be less than 28 days).
- (3) In this paragraph, “the relevant day”, in relation to a partnership proposal, means the day before the day on which the local transport authority send out notices in accordance with sub-paragraph (1).

Effect of objections

- 5 (1) The local transport authority may not progress the partnership proposal and, in particular, may not consult under paragraph 6 if, within the period for objections—
- (a) in a case where the partnership proposal is a proposal to make a partnership plan and scheme (or schemes)—
 - (i) a sufficient number of the persons who are operators of qualifying local services in the area of the partnership proposal object to it being made, or

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- (ii) a sufficient number of the persons who are operators of qualifying local services in the area of the scheme object to it being made, or
 - (b) in a case where the partnership proposal is a proposal to make a scheme (or schemes) in relation to an existing plan, a sufficient number of the persons who are operators of qualifying local services in the area of the scheme object to it being made.
- (2) If the partnership proposal is a proposal to make two or more schemes at the same time, paragraphs (a)(ii) and (b) of sub-paragraph (1) have effect as if references to the scheme were references to the scheme in question.

Notice of, and consultation on, partnership proposal

- 6
- (1) This paragraph applies where, following the period for objections under paragraph 5, a local transport authority are not prevented from consulting.
 - (2) The local transport authority must give notice of the partnership proposal in such manner as they consider appropriate for bringing the notice to the attention of persons in their area.
 - (3) A notice under sub-paragraph (2) must—
 - (a) contain full details of the partnership proposal, or
 - (b) state where such details may be inspected.
 - (4) After giving the notice, the local transport authority must consult—
 - (a) all operators of local services who, in the opinion of the authority, are likely to be affected by the partnership proposal,
 - (b) such organisations appearing to the authority to be representative of users of local services as they think fit,
 - (c) any other local transport authority or Transport Partnership that the authority consider may be affected by the partnership proposal,
 - (d) the traffic commissioner,
 - (e) the chief constable of the Police Service of Scotland,
 - (f) the Competition and Markets Authority, and
 - (g) such other persons as the authority think fit.

Modifications of partnership proposal

- 7
- (1) This section applies where, following consultation under paragraph 6, a local transport authority consider it appropriate to modify the partnership proposal.
 - (2) The local transport authority must give notice of the partnership proposal as modified to persons who, on the relevant day, are operators of qualifying local services in the area to which the partnership proposal as modified relates.
 - (3) The notice under sub-paragraph (2) must—
 - (a) contain full details of the partnership proposal as modified,
 - (b) contain a statement advising of the effect of sub-paragraph (4),

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- (c) state the period within which objections may be made (which may not be less than 28 days).
- (4) The local transport authority may not make the partnership proposal (as modified) if, within the period for making objections—
- (a) in a case where the partnership proposal is a proposal to make a partnership plan and scheme (or schemes)—
 - (i) a sufficient number of the persons who are operators of qualifying local services in the area of the partnership proposal object to it being made,
 - (ii) a sufficient number of the persons who are operators of qualifying local services in the area of the scheme object to it being made, or
 - (b) in a case where the partnership proposal is a proposal to make a scheme (or schemes) in relation to an existing plan, a sufficient number of the persons who are operators of qualifying local services in the area of the scheme object to it being made.
- (5) If the partnership proposal (as modified) relates to the making of two or more schemes at the same time, paragraphs (a)(ii) and (b) of sub-paragraph (4) have effect as if the references to the scheme were references to the scheme in question.
- (6) In this paragraph, “the relevant day”, in relation to a partnership proposal which has been modified, means the day before the day on which the local transport authority send out notices relating to the proposal in accordance with sub-paragraph (2).

Making of partnership plan or scheme and giving notice to that effect

- 8 (1) This paragraph applies where a local transport authority—
- (a) have consulted on a partnership proposal,
 - (b) if applicable, are not prevented from making the partnership proposal as modified under paragraph 7, and
 - (c) decide to make the partnership proposal (or the proposal as modified).
- (2) The local transport authority may proceed to make the partnership plan and schemes (or schemes) or, as the case may be, scheme (or schemes) relating to an existing plan contained in the partnership proposal.
- (3) But the making of the scheme does not have effect unless, within the period of 14 days beginning with the day after the day on which the local transport authority made the partnership plan and scheme (or schemes) or, as the case may be, scheme (or schemes) relating to an existing plan, the authority give notice of the partnership proposal having been made to—
- (a) all operators of local services who, in the opinion of the authority, are likely to be affected by it having been made,
 - (b) such organisations appearing to the authority to be representative of users of local services as they think fit,
 - (c) any other local transport authority or Transport Partnership that the authority consider may be affected by the partnership proposal being made,

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- (d) the traffic commissioner,
 - (e) the chief constable of the Police Service of Scotland,
 - (f) the Competition and Markets Authority, and
 - (g) such other persons as the authority think fit.
- (4) The notice must—
- (a) contain full details of the partnership plan and scheme or, as the case may be, the scheme, that has been made, or
 - (b) state where such details may be inspected.

Consulting on postponing the coming into operation of partnership scheme

- 9 Where a local transport authority propose to postpone the coming into operation of a partnership scheme (or any part of it), before making a decision on whether or not to do so, they must consult all operators of local services who are, in their opinion, likely to be affected by the postponement.

Postponing the coming into operation of partnership scheme and giving notice

- 10 (1) This paragraph applies where a local transport authority—
- (a) have consulted on postponing the coming into operation of a partnership scheme (or any part of it), and
 - (b) have decided to postpone the scheme (or any part of it).
- (2) The local transport authority may proceed to postpone the coming into operation of the partnership scheme (or any part of it).
- (3) But the postponement does not have effect unless, within the period of 14 days beginning with the day after the day on which the local transport authority decide to postpone the coming into operation of the partnership scheme (or any part of it), the authority—
- (a) publicise their decision in a manner they consider likely to bring the postponement to the attention of persons likely to be affected by the postponement, and
 - (b) give notice of their decision to—
 - (i) any operator of a local service who is, in the opinion of the authority, likely to be affected by the postponement, and
 - (ii) the traffic commissioner.
- (4) The notice must include a statement of the local transport authority's reasons for deciding to postpone the coming into operation of the partnership scheme (or any part of it).

PART 2

VARIATION

Meaning of local transport authority for the purposes of this Part

- 11 For the purposes of this Part, unless the context otherwise requires, a reference to a local transport authority includes a reference to a prospective authority (within the meaning of section 3H(2)(a)); and a reference to the area of the local transport authority is to be construed as including that of the prospective authority.

Preliminary notice

- 12 Where a local transport authority propose to vary a partnership plan or scheme under section 3H they must give notice of their proposal in such manner as they consider appropriate for bringing the notice to the attention of persons in their area.

Preparation

- 13 After giving notice under paragraph 12, the local transport authority must—
- (a) invite every person who, at the qualifying time, is (or was) an operator of a qualifying local service in the area of the partnership plan (including those who, for whatever reason, become such an operator during the period when the changes are being prepared) to participate in the preparation of the changes, and
 - (b) in collaboration with such invited persons as wish to participate, prepare the changes for consultation.

Notice of draft changes and period for objections

- 14 (1) The local transport authority must give notice of the changes prepared under paragraph 13 to persons who, at the qualifying time, are (or were) operators of qualifying local services in the area of the partnership plan and, if the changes involve adjusting the area of the plan, the proposed area.
- (2) A notice under this paragraph must—
- (a) contain full details of the changes prepared,
 - (b) contain a statement advising of the effect of paragraph 15,
 - (c) state the period within which objections may be made (which may not be less than 28 days).

Effect of objections

- 15 (1) The local transport authority may not progress the proposed variation and, in particular, may not consult under paragraph 16 if, within the period for objections—

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- (a) in a case where the changes prepared under paragraph 13 relate to the proposed variation of a partnership plan, a sufficient number of the persons who are (or were) operators of qualifying local services in the area of the plan at the qualifying time object to it being varied, or
 - (b) in a case where the changes prepared under paragraph 13 relate to the proposed variation of a partnership scheme, a sufficient number of persons who are (or were) operators of qualifying local services in the area of the scheme at the qualifying time object to it being varied.
- (2) If the changes prepared under paragraph 13 relate to the variation of two or more partnership schemes at the same time, sub-paragraph (1)(b) has effect as if references to the scheme were references to the scheme in question.

Notice and consultation on changes

- 16 (1) This paragraph applies where, following the period for objections under paragraph 15, a local transport authority are not prevented from consulting.
- (2) The local transport authority must give notice of the changes prepared under paragraph 13 in such manner as they consider appropriate for bringing the notice to the attention of persons in their area.
- (3) A notice under sub-paragraph (2) must—
- (a) contain full details of the changes, or
 - (b) state where such details may be inspected.
- (4) After giving the notice, the local transport authority must consult—
- (a) all operators of local services who, in the opinion of the authority, are likely to be affected by the proposed variation,
 - (b) such organisations appearing to the authority to be representative of users of local services as they think fit,
 - (c) any other local transport authority or Transport Partnership that the authority consider may be affected by the proposed variation,
 - (d) the traffic commissioner,
 - (e) the chief constable of the Police Service of Scotland,
 - (f) the Competition and Markets Authority, and
 - (g) such other persons as the authority think fit.

Modifications of changes

- 17 (1) This section applies where, following consultation under paragraph 16, a local transport authority consider it appropriate to modify the changes prepared under paragraph 13.
- (2) The local transport authority must give notice of the changes as modified to persons who are (or were) operators of qualifying local services in the area to which the changes as modified relate at the qualifying time.
- (3) The notice under sub-paragraph (2) must—

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- (a) contain full details of the changes as modified,
 - (b) contain a statement advising of the effect of sub-paragraph (4),
 - (c) state the period within which objections may be made (which may not be less than 28 days).
- (4) The local transport authority may not proceed to vary the partnership plan or scheme in line with the modified changes if, within the period for making objections—
- (a) in a case where the proposed variation relates to a plan, a sufficient number of the persons who are (or were) operators of qualifying local services in the area of the plan at the qualifying time object to the variation, or
 - (b) in a case where the proposed variation relates to a scheme, a sufficient number of the persons who are (or were) operators of qualifying local services in the area of the scheme at the qualifying time object to the variation.
- (5) If the changes (as modified) relate to the variation of two or more partnership schemes at the same time, sub-paragraph (4)(b) has effect as if the references to the scheme were references to the scheme in question.

Making the variation and giving notice to that effect

- 18 (1) This paragraph applies where a local transport authority—
- (a) have consulted on changes prepared under paragraph 13,
 - (b) if applicable, are not prevented from making the changes (as modified) under paragraph 17, and
 - (c) decide to vary the partnership plan or scheme by making the changes (or the changes as modified).
- (2) The local transport authority may proceed to vary the partnership plan or scheme (or schemes) by making the changes.
- (3) But the variation does not have effect unless, within the period of 14 days beginning with the day after the day on which the local transport authority vary a partnership plan or scheme (or schemes), the authority give notice of the variation to—
- (a) all operators of local services who, in the opinion of the authority, are likely to be affected by the plan or scheme having been varied,
 - (b) such organisations appearing to the authority to be representative of users of local services as they think fit,
 - (c) any other local transport authority or Transport Partnership that the authority consider may be affected by the plan or scheme having been varied,
 - (d) the traffic commissioner,
 - (e) the chief constable of the Police Service of Scotland,
 - (f) the Competition and Markets Authority, and
 - (g) such other persons as the authority think fit.
- (4) The notice must—
- (a) contain full details of the partnership plan or scheme as varied, or
 - (b) state where such details may be inspected.

Consulting on postponing the coming into operation of variation

19 Where a local transport authority propose to postpone the coming into operation of the variation of a partnership scheme (or any part of it), before making a decision on whether or not to do so, they must consult all operators of local services who are, in their opinion, likely to be affected by the postponement.

Postponing the coming into operation of variation and giving notice to that effect

- 20 (1) This paragraph applies where a local transport authority—
- (a) have consulted on postponing the coming into operation of a variation of a partnership scheme (or any part of it), and
 - (b) have decided to postpone the variation.
- (2) The local transport authority may proceed to postpone the coming into operation of a variation of a partnership scheme (or any part of it).
- (3) But the postponement does not have effect unless, within the period of 14 days beginning with the day after the day on which the local transport authority decide to postpone the coming into operation of the variation of a partnership scheme (or any part of it), the authority—
- (a) publicise their decision in a manner they consider likely to bring the postponement to the attention of persons likely to be affected by the postponement, and
 - (b) give notice of their decision to—
 - (i) any operator of a local service who is, in the opinion of the authority, likely to be affected by the postponement, and
 - (ii) the traffic commissioner.
- (4) The notice must include a statement of the local transport authority's reasons for deciding to postpone the coming into operation of the variation of a partnership scheme (or any part of it).

PART 3

REVOCATION

Notice of proposal to revoke

21 Where a local transport authority propose to revoke a partnership plan or a partnership scheme under section 3I, they must give notice of the proposal in such manner as they consider appropriate to bring the proposal to the attention of persons in their area.

Consultation on proposal

22 After giving notice under paragraph 21, the local transport authority must consult—

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- (a) all operators of local services who, in the opinion of the authority, are likely to be affected by the proposed revocation,
- (b) such organisations appearing to the authority to be representative of users of local services as they think fit,
- (c) any other local transport authority or Transport Partnership that the authority consider may be affected by the proposed revocation,
- (d) the traffic commissioner,
- (e) the chief constable of the Police Service of Scotland,
- (f) the Competition and Markets Authority, and
- (g) such other persons as the authority think fit.

Notice of intention to revoke and period for objections

- 23 (1) If, following consultation under paragraph 22, the local transport authority consider it appropriate to revoke the partnership plan or scheme, they must give notice of their intention to any persons who are (or were) operators of qualifying local services at the qualifying time.
- (2) The notice under sub-paragraph (1) must—
- (a) state the date on which the partnership plan or scheme is to be revoked,
 - (b) state the local transport authority's reasons for revoking the plan or scheme,
 - (c) contain a statement advising of the effect of paragraph 24,
 - (d) state the period within which objections may be made (which may not be less than 28 days).

Effect of objections

- 24 The local transport authority may not revoke the partnership plan or scheme if a sufficient number of the persons who are (or 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.

Revoking the plan or scheme and giving notice to that effect

- 25 (1) This paragraph applies where a local transport authority—
- (a) have given notice of their intention to revoke a partnership plan or scheme under paragraph 23,
 - (b) are not prevented from revoking the scheme under paragraph 24, and
 - (c) decide to proceed with the revocation.
- (2) The local transport authority may proceed to revoke the partnership plan or scheme (or schemes).
- (3) But the revocation does not have effect unless, within the period of 14 days beginning with the day after the day on which the partnership plan or scheme is revoked, the local transport authority give notice of the revocation to—

- (a) all operators of local services who, in the opinion of the authority, are likely to be affected by the plan or scheme having been revoked,
- (b) such organisations appearing to the authority to be representative of users of local services as they think fit,
- (c) any other local transport authority or Transport Partnership that the authority consider may be affected by the plan or scheme having been revoked,
- (d) the traffic commissioner,
- (e) the chief constable of the Police Service of Scotland,
- (f) the Competition and Markets Authority, and
- (g) such other persons as the authority think fit.

PART 4

POWERS OF SCOTTISH MINISTERS IN RELATION TO CERTAIN EXPRESSIONS USED IN THIS SCHEDULE

- 26 (1) Without limit to the generality of section 3M, the Scottish Ministers may by regulations specify—
- (a) the descriptions of local services that are qualifying local services for the purposes of this schedule,
 - (b) what constitutes a sufficient number of persons for the purposes of paragraphs 5(1), 7(4), 15(1), 17(4) and 24,
 - (c) how the qualifying time is to be determined for the purposes of paragraphs 13(a), 14(1), 15(1), 17(2) and (4), 23(1) and 24.
- (2) Regulations made in pursuance of sub-paragraph (1)(b) may, in particular—
- (a) require that a sufficient number of persons is—
 - (i) all persons providing qualifying local services in the area in question, or
 - (ii) 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 all persons providing those services as is specified in the regulations,
 - (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.”.