



# Local Transport Act 2008

## 2008 CHAPTER 26

### PART 3

#### BUS SERVICES

##### *Continuation of quality contracts schemes*

### 35 Appeals where proposed continuation considered exempt

After section 131D of the TA 2000 insert—

#### **“131E Appeals where proposed continuation considered exempt**

- (1) This section applies where an authority or authorities who propose that a quality contracts scheme should continue in operation (with or without modifications) under section 131A—
  - (a) decide that the proposal is an exempt continuation proposal, and
  - (b) acting on the basis of that decision, decide that the scheme should so continue in operation.
- (2) Any person falling within subsection (3) may appeal to the Transport Tribunal against—
  - (a) the decision of the authority or authorities that the proposal is an exempt continuation proposal, or
  - (b) the decision of the authority or authorities that the scheme is to continue in operation (with or without any modifications).
- (3) The persons are—
  - (a) any person who was consulted under section 125(3) (as it applies by virtue of section 131A in a case where the proposal is an exempt proposal),
  - (b) any person who was not so consulted, but who, in the opinion of the Transport Tribunal, ought to have been so consulted.

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*Changes to legislation: Local Transport Act 2008, Section 35 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (4) An appeal under this section may be—
  - (a) on a point of law, or
  - (b) on a question of fact.
- (5) On an appeal under this section the Transport Tribunal shall have power—
  - (a) to make such order as they think fit, or
  - (b) to remit any matter (with or without directions) to the authority or authorities for their consideration or determination or for such other purposes as the Tribunal may direct.
- (6) The powers of the Tribunal on an appeal under this section include power to do any one or more of the following—
  - (a) dismiss the appeal in whole or in part,
  - (b) remit the matter to the authority or authorities with one or more directions under subsection (7),
  - (c) direct the authority or authorities to vary the scheme, as it continues or is to continue in operation, in such manner as the Tribunal may specify in the direction (but see subsection (8)),
  - (d) quash the whole or any part of the decision of the authority or authorities (but see subsection (9)).
- (7) A direction under this subsection is a direction for the authority or authorities to do each of the following—
  - (a) consider or reconsider such matters as may be specified in the direction,
  - (b) as respects those matters, consult or further consult the persons mentioned in section 125(3) as it applies by virtue of section 131A in a case where the proposal is an exempt continuation proposal,
  - (c) make such variations of the scheme, as it continues or is to continue in operation, as may in consequence appear appropriate to the authority or authorities.
- (8) The Tribunal may give a direction under this section to vary a scheme by reducing the area to which it relates only if they are of the opinion that the conditions in section 132(3) are met.
- (9) The power of the Tribunal under this section to quash a decision of an authority or authorities that a scheme should continue in operation under section 131A is exercisable only if the Tribunal are of the opinion that there are defects in the scheme which are not capable of being remedied by varying the scheme under or by virtue of subsection (6)(b) or (c).
- (10) If, on an appeal under paragraph (a) or (b) of subsection (2), the Tribunal decide that the proposal for the scheme to continue in operation was not an exempt continuation proposal—
  - (a) they must allow the appeal to that extent,
  - (b) they must remit the matter to the authority or authorities, with or without directions, and
  - (c) subsections (11) to (14) have effect.
- (11) The directions that the Tribunal may give under this section include—
  - (a) directions to take any action specified in the directions for the purpose of remedying any failure to comply with requirements of this Part that

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

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#### Commencement Information

- I1** S. 35 partly in force; s. 35 in force at Royal Assent for specified purposes, see s. 134(1)(c)
- I2** S. 35 in force at 11.1.2010 for E. in so far as not already in force by [S.I. 2009/3242](#), [art. 2\(1\)\(a\)](#)

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**Commencement Orders yet to be applied to the Local Transport Act 2008**

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2009/579 art. 2](#) commences (2008 c. 26)
- [S.I. 2009/3294 art. 2](#) commences (2008 c. 26)