Transport Act 2000

2000 CHAPTER 38

PART I

AIR TRAFFIC

CHAPTER I

AIR TRAFFIC SERVICES

General duties

1 Secretary of State's general duty.

(1) The Secretary of State must exercise his functions under this Chapter so as to maintain a high standard of safety in the provision of air traffic services; and that duty is to have priority over the application of subsections (2) to (5).

(2) The Secretary of State must exercise his functions under this Chapter in the manner he thinks best calculated—

(a) to further the interests of operators and owners of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them;

(b) to promote efficiency and economy on the part of licence holders;

(c) to secure that licence holders will not find it unduly difficult to finance activities authorised by their licences.

(3) The only interests to be considered under subsection (2)(a) are interests regarding the range, availability, continuity, cost and quality of air traffic services.

(4) The reference in subsection (2)(a) to furthering interests includes a reference to furthering them (where the Secretary of State thinks it appropriate) by promoting competition in the provision of air traffic services.

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(5) If in a particular case there is a conflict in the application of the provisions of subsections (2) to (4), in relation to that case the Secretary of State must apply them in the manner he thinks is reasonable having regard to them as a whole.

(6) The Secretary of State must exercise his functions under this Chapter so as to impose on licence holders the minimum restrictions which are consistent with the exercise of those functions.

(7) This section does not apply to the exercise of the Secretary of State's functions under section 38.

Commencement Information

I1 S. 1 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. 1** (subject to the transitional provision and saving in Sch. 2 Pt. II)

2 CAA's general duty.

(1) The CAA must exercise its functions under this Chapter so as to maintain a high standard of safety in the provision of air traffic services; and that duty is to have priority over the application of subsections (2) to (5).

(2) The CAA must exercise its functions under this Chapter in the manner it thinks best calculated—

(a) to further the interests of operators and owners of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them;

(b) to promote efficiency and economy on the part of licence holders;

(c) to secure that licence holders will not find it unduly difficult to finance activities authorised by their licences;

(d) to take account of any international obligations of the United Kingdom notified to the CAA by the Secretary of State (whatever the time or purpose of the notification);

(e) to take account of any guidance on environmental objectives given to the CAA by the Secretary of State after the coming into force of this section.

(3) The only interests to be considered under subsection (2)(a) are interests regarding the range, availability, continuity, cost and quality of air traffic services.

(4) The reference in subsection (2)(a) to furthering interests includes a reference to furthering them (where the CAA thinks it appropriate) by promoting competition in the provision of air traffic services.

(5) If in a particular case there is a conflict in the application of the provisions of subsections (2) to (4), in relation to that case the CAA must apply them in the manner it thinks is reasonable having regard to them as a whole.

(6) The CAA must exercise its functions under this Chapter so as to impose on licence holders the minimum restrictions which are consistent with the exercise of those functions.

(7) Section 4 of the [M1]Civil Aviation Act 1982 (CAA's general objectives) does not apply in relation to the performance by the CAA of its functions under this Chapter.

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Commencement Information

I2 S. 2 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M1 1982 c. 16.

Restrictions

3 Restrictions on providing services.

(1) A person commits an offence if he provides air traffic services in respect of a managed area.

(2) But subsection (1) is subject to subsections (3) to (5).

(3) Subsection (1) does not apply if the person—
- (a) is authorised by an exemption to provide the services, or
- (b) acts as an employee or agent of a person who is authorised by an exemption to provide the services.

(4) Subsection (1) does not apply if the person—
- (a) holds a licence authorising him to provide the services, or
- (b) acts as an employee or agent of a person who is authorised by a licence to provide the services.

(5) Subsection (1) does not apply if the services are provided by the CAA in pursuance of directions under section 66(1).

(6) For the purposes of this section—
- (a) air traffic services are to be treated as provided at the place from which they are provided;
- (b) air traffic services may be provided in respect of a managed area whether or not the aircraft concerned is in that area when they are provided.

(7) A person who commits an offence under this section is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

(8) No proceedings may be started in England and Wales or Northern Ireland for an offence under this section except by or on behalf of—
- (a) the Secretary of State, or
- (b) the CAA acting with his consent.

4 Exemptions.

(1) The Secretary of State may by order grant an exemption authorising the provision of air traffic services in respect of a managed area.

(2) An exemption—

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(a) may be granted to a particular person or to persons of a specified description or to all persons;

(b) may be granted in respect of air traffic services of one or more specified descriptions;

(c) may be granted in respect of air traffic services provided in specified circumstances;

(d) may be granted in respect of one or more specified areas (any of which may consist of all or part of a managed area);

(e) may be granted subject to such conditions as may be specified.

(3) An exemption granted to persons of a specified description must be published in such manner as the Secretary of State thinks appropriate for bringing it to the attention of persons of that description.

(4) An exemption continues in force for the period specified in or determined by or under it, unless it previously ceases to have effect in accordance with its provisions.

Commencement Information

I3 S. 4 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

5 Licences: general.

(1) A licence may be granted to a company authorising it to provide air traffic services in respect of a managed area.

(2) A licence—

(a) may be granted in respect of air traffic services of one or more specified descriptions;

(b) may be granted in respect of one or more specified areas (any of which may consist of all or part of a managed area).

(3) A licence is not valid unless it is in writing.

(4) A licence is not valid unless it is granted to a company which is—

(a) limited by shares and formed and registered under the [M2]Companies Act 1985 or the [M3]Companies (Northern Ireland) Order 1986, or

(b) an existing company within the meaning given by section 735(1) of the [M4]Companies Act 1985 or Article 3 of the [M5]Companies (Northern Ireland) Order 1986.

(5) A licence continues in force for the period specified in it or determined by or under it, unless it previously ceases to have effect in accordance with its provisions.

(6) A licence may not be transferred.

Commencement Information

I4 S. 5 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

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Marginal Citations

M2 1985 c. 6.
M3 S.I. 1986/1032 (N.I. 6).
M4 1985 c. 6.
M5 S.I. 1986/1032 (N.I. 6).

6 Licences: grant.

(1) A licence may be granted by—
- (a) the Secretary of State after consulting the CAA,
- (b) the CAA with the consent of the Secretary of State, or
- (c) the CAA in accordance with a general authority given by the Secretary of State.

(2) A general authority may be given on condition that the CAA complies with specified requirements (whether as to consulting the Secretary of State or obtaining his consent before granting a licence, as to the provisions to be included in a licence, or otherwise).

(3) An application for a licence—
- (a) must be made in the prescribed manner;
- (b) must contain or be accompanied by prescribed information;
- (c) must be accompanied by the application fee (if any);
- (d) must, if the licence authority requires, be published by the applicant in the prescribed manner and within a period notified to it by the licence authority.

(4) On an application the licence authority may grant or refuse the licence.

(5) Before granting or refusing a licence the licence authority must—
- (a) publish a notice in such manner as the authority thinks appropriate for bringing it to the attention of persons likely to be affected by the grant or refusal,
- (b) serve a copy of the notice on the applicant, and
- (c) consider any representations made in accordance with the notice (and not withdrawn).

(6) The notice must—
- (a) state either that the licence authority proposes to grant the licence or that it proposes to refuse it and (in either case) the reasons for so proposing, and
- (b) state the period (not less than 28 days starting with the date of publication of the notice) within which representations may be made regarding the proposed grant or refusal.

(7) As soon as practicable after granting a licence the grantor must send a copy—
- (a) to the CAA, if the grantor is the Secretary of State;
- (b) to the Secretary of State, if the grantor is the CAA.

(8) The following requirements do not apply in relation to licences which need to be granted before the coming into force of section 3—
- (a) the requirement to consult imposed by subsection (1)(a);
- (b) the requirements imposed by subsection (3);
- (c) the requirements imposed by subsections (5) and (6).

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(9) The licence authority is the Secretary of State or the CAA (depending on the person to whom it falls to grant the licence).

(10) The application fee is—

(a) the prescribed fee, if the licence authority is the Secretary of State;

(b) the charge determined under a scheme or regulations made under section 11 of the [M6]Civil Aviation Act 1982, if the licence authority is the CAA.

(11) "Prescribed" means prescribed by regulations made by the Secretary of State.

Commencement Information

I5 S. 6 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M6 1982 c. 16.

7 Licences: provisions.

(1) A licence may include such provisions as the licence authority thinks are necessary or expedient; and a provision need not relate to services authorised by the licence.

(2) In particular, provision of the following kinds may be included—

(a) provision requiring the licence holder to enter into an agreement for a purpose specified in the licence and provision for determining the terms of the agreement;

(b) provision requiring the licence holder to comply with any requirements imposed at any time (by directions or otherwise) by a person with respect to any matter specified, or of a description specified, in the licence;

(c) provision requiring the licence holder, except in so far as a person consents to its doing or not doing them, not to do or to do such things as may be specified, or of a description specified, in the licence;

(d) provision requiring the licence holder to refer to a person for approval or determination such matters as may be specified, or of a description specified, in the licence.

(3) A reference in subsection (2) to a person is to—

(a) a person specified, or of a description specified, in the licence for the purpose concerned, or

(b) if the licence so provides, a person nominated for the purpose concerned by a person falling within paragraph (a);

and any of those persons may be the licence authority or some other person.

(4) A licence may include provisions requiring a payment on its grant or payments during its currency (or both)—

(a) of an amount or amounts specified in the licence or determined by or under it;

(b) to a person or persons specified in the licence or determined by or under it.

(5) A provision relating to the modification of a licence is to have effect in addition to the provisions of this Chapter regarding modification.

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(6) Such provisions as the licence authority thinks fit may be expressed as conditions.

(7) The licence authority is the Secretary of State or the CAA (depending on the person to whom it falls to grant the licence).

Commencement Information

I6 S. 7 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

8 Duties of licence holders.

(1) While a licence is in force its holder—

(a) must secure that a safe system for the provision of authorised air traffic services in respect of a licensed area is provided, developed and maintained;

(b) must take all reasonable steps to secure that the system is also efficient and co-ordinated;

(c) must take all reasonable steps to secure that the demand for authorised air traffic services in respect of a licensed area is met;

(d) must have regard, in providing, developing and maintaining the system, to the demands which are likely to be placed on it in the future.

(2) A licensed area is an area in respect of which the licence authorises its holder to provide air traffic services.

(3) Authorised services are services of the description specified in the licence as the description of services which the holder of the licence is authorised to provide.

(4) For the purposes of subsection (1)(a) a system for the provision of services is safe if (and only if) in providing the services the person who provides them complies with such requirements as are imposed by Air Navigation Orders with regard to their provision.

(5) An Air Navigation Order is an Order in Council under section 60 of the [M7]Civil Aviation Act 1982.

Commencement Information

I7 S. 8 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M7 1982 c. 16.

9 Power to exclude services from effect of section 8.

(1) If a notice given by the CAA to a licence holder so provides, such air traffic services as are specified in the notice are to be treated as not being authorised services for the purposes of section 8 in its application to that holder.

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(2) A notice under subsection (1) may specify the air traffic services by reference to part of a licensed area.

(3) A notice under this section may be modified or revoked by a further notice given by the CAA to the holder concerned.

Commencement Information

I8 S. 9 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

10 Breach of duties or conditions.

(1) No action is to lie in respect of a failure by a licence holder to perform—

(a) a duty imposed by section 8;

(b) a condition of a licence.

(2) But subsection (1) does not affect—

(a) a right of action in respect of an act or omission which takes place in the course of the provision of air traffic services;

(b) the power to make an order under section 20, a duty to comply with the order and a power to bring proceedings in respect of the duty.

Commencement Information

I9 S. 10 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Modification of licences

11 Modification by agreement.

(1) The CAA may modify the conditions of a licence if its holder consents to the modifications.

(2) Before making modifications under this section the CAA must—

(a) publish a notice in such manner as the CAA thinks appropriate for bringing it to the attention of persons likely to be affected by the making of the modifications,

(b) serve a copy of the notice on the licence holder,

(c) send a copy of the notice to the Secretary of State, and

(d) consider any representations made in accordance with the notice.

(3) The notice must—

(a) state that the CAA proposes to make the modifications and state their effect and the reasons for so proposing, and

(b) state the period (not less than 28 days starting with the date of publication of the notice) within which representations may be made regarding the proposed modifications.

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(4) If within the period stated under subsection (3)(b) the Secretary of State gives a direction to the CAA requiring it not to make the modifications the CAA must comply with the direction.

(5) As soon as practicable after making modifications under this section the CAA must send a copy of them to the licence holder and a copy to the Secretary of State.

Commencement Information

I10 S. 11 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

12 References to Competition Commission.

(1) The CAA may make to the Competition Commission a reference requiring the Commission to investigate and report on—

(a) whether any matters which are specified in the reference and which relate to the provision of air traffic services by or on behalf of a licence holder operate against the public interest or may be expected to do so;

(b) if so, whether the effects adverse to the public interest which the matters have or may be expected to have could be remedied or prevented by modifying the conditions of the licence.

(2) The CAA may at any time by notice given to the Commission vary a reference by adding to the matters specified in it or by excluding from it one or more of those matters; and on receiving a notice the Commission must give effect to the variation.

(3) To help the Commission in its investigation the CAA may specify in the reference or a variation of it—

(a) any effects adverse to the public interest which in its opinion the matters specified in the reference or variation have or may be expected to have;

(b) any modifications of the conditions of the licence by which in its opinion those effects could be remedied or prevented.

(4) As soon as practicable after making a reference or variation the CAA must—

(a) serve a copy of the reference or variation on the licence holder;

(b) publish particulars of the reference or variation in such manner as the CAA considers appropriate for bringing it to the attention of persons likely to be affected by it;

(c) send a copy of the reference or variation to the Secretary of State.

(5) If before the end of the period of 28 days starting with the day on which the Secretary of State receives the copy he gives a direction to the Commission requiring it not to proceed with the reference or not to give effect to the variation, the Commission must comply with the direction.

(6) To help the Commission in its investigation the CAA must give to the Commission—

(a) any information the CAA has which relates to matters within the scope of the investigation and which the Commission requests;

(b) any information the CAA has which relates to matters within the scope of the investigation and which the CAA thinks it would be appropriate for it to give without a request;

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(c) any other help which the CAA is able to give in relation to matters within the scope of the investigation and which the Commission requests.

(7) In carrying out the investigation concerned the Commission must take account of any information given under subsection (6).

(8) In deciding under this section whether a matter operates, or may be expected to operate, against the public interest the Commission must have regard to the matters as respects which duties are imposed on the Secretary of State and the CAA by sections 1 and 2.

[F1](9) . . . . . .

[F1](10) . . . . . .

[F1](11) . . . . . .

Textual Amendments

F1 S. 12(9)(10)(11) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 44(2), **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

Commencement Information

I11 S. 12 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

[[F2]12A References under section 12: time limits

(1) Every reference under section 12 shall specify a period (not longer than six months beginning with the date of the reference) within which a report on the reference is to be made.

(2) A report of the Competition Commission on a reference under section 12 shall not have effect (and no action shall be taken in relation to it under section 14) unless the report is made before the end of the period specified in the reference or such further period (if any) as may be allowed by the CAA under subsection (3).

(3) The CAA may, if it has received representations on the subject from the Competition Commission and is satisfied that there are special reasons why the report cannot be made within the period specified in the reference, extend that period by no more than six months.

(4) No more than one extension is possible under subsection (3) in relation to the same reference.

(5) The CAA shall, in the case of an extension made by it under subsection (3)—

(a) publish that extension in such manner as it considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it; and

(b) send a copy of what has been published by it under paragraph (a) to the licence holder and the Secretary of State.

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Textual Amendments

F2 Ss. 12A, 12B inserted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 44(3)**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

12B References under section 12: application of Enterprise Act 2002

(1) The following sections of Part 3 of the Enterprise Act 2002 shall apply, with the modifications mentioned in subsections (2) and (3), for the purposes of references under section 12 as they apply for the purposes of references under that Part—

(a) section 109 (attendance of witnesses and production of documents etc.);
(b) section 110 (enforcement of powers under section 109: general);
(c) section 111 (penalties);
(d) section 112 (penalties: main procedural requirements);
(e) section 113 (payments and interest by instalments);
(f) section 114 (appeals in relation to penalties);
(g) section 115 (recovery of penalties); and
(h) section 116 (statement of policy).

(2) Section 110 shall, in its application by virtue of subsection (1), have effect as if—

(a) subsection (2) were omitted; and
(b) in subsection (9) the words from "or section" to "section 65(3))" were omitted.

(3) Section 111(5)(b)(ii) shall, in its application by virtue of subsection (1), have effect as if—

(a) for the words "published (or, in the case of a report under section 50 or 65, given)" there were substituted "made";
(b) for the words "published (or given)", in both places where they appear, there were substituted "made"; and
(c) the words "by this Part" were omitted.

(4) Section 117 of the Enterprise Act 2002 (false or misleading information) shall apply in relation to functions of the Competition Commission in connection with references under section 12 as it applies in relation to its functions under Part 3 of that Act but as if, in subsections (1)(a) and (2), the words **[**[F3]"the OFT, OFCOM,"**]** and "or the Secretary of State" were omitted.

(5) Provisions of Part 3 of the Enterprise Act 2002 which have effect for the purposes of sections 109 to 117 of that Act (including, in particular, provisions relating to offences and the making of orders) shall, for the purposes of the application of those sections by virtue of subsection (1) or (4), have effect in relation to those sections as applied by virtue of those subsections.

(6) Accordingly, corresponding provisions of this Act shall not have effect in relation to those sections as applied by virtue of those subsections.**]**

Textual Amendments

F2 Ss. 12A, 12B inserted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 44(3)**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

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F3 Words in s. 12B(4) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 16 para. 7(2)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

13 Reports on references.

(1) In making a report on a reference under section 12 the Competition Commission—

(a) must include definite conclusions on the questions contained in the reference and such an account of its reasons for the conclusions as in its opinion facilitates a proper understanding of the questions and of the conclusions;

(b) if it concludes that any of the matters specified in the reference operate against the public interest or may be expected to do so, must specify the effects adverse to the public interest which the matters have or may be expected to have;

(c) if it concludes that any adverse effects so specified could be remedied or prevented by modifications of the conditions of the licence, must specify modifications by which the effects could be remedied or prevented.

[[F4](1A) For the purposes of sections 14 to 17, a conclusion contained in a report of the Competition Commission is to be disregarded if the conclusion is not that of at least two-thirds of the members of the group constituted in connection with the reference concerned in pursuance of paragraph 15 of Schedule 7 to the Competition Act 1998.

(1B) If a member of a group so constituted disagrees with any conclusions contained in a report made on a reference under section 12 as the conclusions of the Competition Commission, the report shall, if the member so wishes, include a statement of his disagreement and of his reasons for disagreeing.**]**

[[F5](2) the purposes of the law relating to defamation, absolute privilege attaches to any report made by the Competition Commission on a reference under section 12.

(2A) In making any report on a reference under section 12 the Competition Commission must have regard to the following considerations before disclosing any information.

(2B) The first consideration is the need to exclude from disclosure (so far as practicable) any information whose disclosure the Competition Commission thinks is contrary to the public interest.

(2C) The second consideration is the need to exclude from disclosure (so far as practicable) —

(a) commercial information whose disclosure the Competition Commission thinks might significantly harm the legitimate business interests of the undertaking to which it relates, or

(b) information relating to the private affairs of an individual whose disclosure the Competition Commission thinks might significantly harm the individual's interests.

(2D) The third consideration is the extent to which the disclosure of the information mentioned in subsection (2C)(a) or (b) is necessary for the purposes of the report.**]**

(3) A report of the Commission on a reference under section 12 must be made to the CAA.

(4) The CAA—

(a) must on receiving such a report send a copy to the licence holder and a copy to the Secretary of State;

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(b) must, after the end of the specified period, publish the report in such manner as the CAA considers appropriate for bringing it to the attention of persons likely to be affected by it.

(5) But if the Secretary of State thinks that the publication of any matter would be against the public interest or any person's commercial interests, he may before the end of the specified period give a direction to the CAA requiring it to exclude the matter from every copy of the report to be published as mentioned above.

(6) The specified period is the period of 14 days starting with the day after the Secretary of State receives the copy under subsection (4).

Textual Amendments

F4 S. 13(1A)(1B) inserted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 44(4)(a)**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

F5 S. 13(2)-(2D) substituted for s. 13(2) (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 44(4)(b)**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

Commencement Information

I12 S. 13 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

14 Modification following report.

(1) This section applies if a report of the Competition Commission on a reference under section 12—

(a) includes conclusions to the effect that any of the matters specified in the reference operate against the public interest or may be expected to do so,

(b) specifies effects adverse to the public interest which the matters have or may be expected to have,

(c) includes conclusions to the effect that the effects could be remedied or prevented by modifications of the conditions of the licence, and

(d) specifies modifications by which the effects could be remedied or prevented.

(2) The CAA must suggest such modifications of the conditions of the licence as it thinks are needed to remedy or prevent the adverse effects specified in the report.

(3) Before suggesting modifications the CAA must—

(a) have regard to the modifications specified in the report,

(b) publish a notice in such manner as the CAA thinks appropriate for bringing the matters to which it relates to the attention of persons likely to be affected by the making of the modifications,

(c) serve a copy of the notice on the licence holder, and

(d) consider any representations made in accordance with the notice (and not withdrawn).

(4) The notice must—

(a) state that the CAA proposes to suggest the modifications and state their effect and the reasons for so proposing, and

(b) state the period (not less than 28 days starting with the date of publication of the notice) within which representations may be made regarding the proposals.

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(5) If the CAA suggests modifications under this section it must—

(a) give notice to the Commission setting out the modifications it suggests and the reasons for its suggestions, and

(b) send to the Commission copies of any representations made in accordance with the notice published under subsection (3) (and not withdrawn).

Commencement Information

I13 S. 14 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

15 Commission's power to give direction.

(1) This section applies if the Competition Commission is given notice under section 14.

(2) Within the permitted period the Commission may give a direction to the CAA—

(a) not to make the modifications set out in the notice, or

(b) not to make such of those modifications as are specified in the direction.

(3) But the Commission may give a direction only if it thinks the modifications set out in the notice are not the modifications which are needed to remedy or prevent the adverse effects specified in the Commission's report on the reference under section 12.

(4) If the Commission gives a direction it must—

(a) publish a notice in such manner as the Commission thinks appropriate for bringing the matters to which it relates to the attention of persons likely to be affected by the direction, and

(b) serve a copy of the notice on the licence holder.

(5) The notice must set out—

(a) the modifications set out in the notice given under section 14,

(b) the direction, and

(c) the reasons for giving the direction.

(6) If the permitted period expires without a direction being given under subsection (2) the CAA must make the modifications set out in the notice given under section 14.

(7) If within the permitted period a direction is given under subsection (2)(b) the CAA must make the modifications which are—

(a) set out in the notice given under section 14, and

(b) not specified in the direction.

(8) As soon as practicable after making modifications under this section the CAA must send a copy of them to the licence holder and a copy to the Secretary of State.

(9) The permitted period is the period of four weeks starting with the day the Commission is given notice under section 14.

(10) But if within that period—

(a) the Commission applies to the Secretary of State to extend it to six weeks, and

(b) he directs that it is to be so extended,

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the permitted period is the period of six weeks starting with the day the Commission is given notice under section 14.

Commencement Information

I14 S. 15 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

16 Position where Commission gives direction.

(1) This section applies if the Competition Commission gives a direction under section 15(2).

(2) If the direction is given under section 15(2)(a) the Commission must itself make such modifications of the conditions of the licence as it thinks are needed to remedy or prevent the adverse effects specified in the Commission's report on the reference under section 12.

(3) If the direction is given under section 15(2)(b) the Commission must itself make such modifications of the conditions of the licence as it thinks are needed to remedy or prevent such of the adverse effects as—

(a) are specified in the Commission's report on the reference under section 12, and

(b) would not be remedied or prevented by the modifications set out in the notice under section 14 and not specified under section 15(2)(b).

(4) Before making modifications under this section the Commission must—

(a) publish a notice in such manner as the Commission thinks appropriate for bringing the matters to which it relates to the attention of persons likely to be affected by the making of the modifications,

(b) serve a copy of the notice on the licence holder and a copy on the CAA, and

(c) consider any representations made in accordance with the notice (and not withdrawn).

(5) The notice must—

(a) state that the Commission proposes to make the modifications and state their effect and the reasons for so proposing, and

(b) state the period (not less than 28 days starting with the date of publication of the notice) within which representations may be made regarding the proposed modifications.

(6) As soon as practicable after making modifications under this section the Commission must—

(a) publish a notice in such manner as the Commission thinks appropriate for bringing the matters to which it relates to the attention of persons likely to be affected by the modifications, and

(b) serve a copy of the notice on the licence holder, a copy on the Secretary of State and a copy on the CAA.

(7) The notice under subsection (6) must—

(a) state that the modifications have been made,

(b) set them out, and

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(c) set out the reasons for making them.

Commencement Information

I15 S. 16 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

17 Commission's duty as to modifications under section 16.

(1) The Competition Commission must exercise its functions under section 16(2) and (3) so as to maintain a high standard of safety in the provision of air traffic services; and that duty is to have priority over the application of subsections (2) to (5).

(2) The Commission must exercise its functions under section 16(2) and (3) in the manner it thinks best calculated—

(a) to further the interests of operators and owners of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them;

(b) to promote efficiency and economy on the part of licence holders;

(c) to secure that licence holders will not find it unduly difficult to finance activities authorised by their licences;

(d) to take account of any international obligations of the United Kingdom notified to the CAA by the Secretary of State (whatever the time or purpose of the notification) and notified to the Commission by the CAA;

(e) to take account of any guidance on environmental objectives given to the CAA by the Secretary of State after the coming into force of this section and notified to the Commission by the CAA.

(3) The only interests to be considered under subsection (2)(a) are interests regarding the range, availability, continuity, cost and quality of air traffic services.

(4) The reference in subsection (2)(a) to furthering interests includes a reference to furthering them (where the Commission thinks it appropriate) by promoting competition in the provision of air traffic services.

(5) If in a particular case there is a conflict in the application of the provisions of subsections (2) to (4), in relation to that case the Commission must apply them in the manner it thinks is reasonable having regard to them as a whole.

(6) The Commission must exercise its functions under section 16(2) and (3) so as to impose on licence holders the minimum restrictions which are consistent with the exercise of those functions.

Commencement Information

I16 S. 17 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

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[F6 18 Sections 15 and 16: general.

(1) For the purposes of the law relating to defamation, absolute privilege attaches to any notice under section 15(4) or 16(4) or (6).

(2) In publishing or serving any notice under section 15(4) or 16(4) or (6), the Competition Commission must have regard to the following considerations before disclosing any information.

(3) The first consideration is the need to exclude from disclosure (so far as practicable) any information whose disclosure the Competition Commission thinks is contrary to the public interest.

(4) The second consideration is the need to exclude from disclosure (so far as practicable) —

(a) commercial information whose disclosure the Competition Commission thinks might significantly harm the legitimate business interests of the undertaking to which it relates, or

(b) information relating to the private affairs of an individual whose disclosure the Competition Commission thinks might significantly harm the individual's interests.

(5) The third consideration is the extent to which the disclosure of the information mentioned in subsection (4)(a) or (b) is necessary for the purposes of the notice.

(6) The following sections of Part 3 of the Enterprise Act 2002 shall apply, with the modifications mentioned in subsections (7) and (8), for the purposes of any investigation by the Competition Commission for the purposes of the exercise of its functions under section 15 or 16, as they apply for the purposes of any investigation on references under that Part—

(a) section 109 (attendance of witnesses and production of documents etc.);

(b) section 110 (enforcement of powers under section 109: general);

(c) section 111 (penalties);

(d) section 112 (penalties: main procedural requirements);

(e) section 113 (payments and interest by instalments);

(f) section 114 (appeals in relation to penalties);

(g) section 115 (recovery of penalties); and

(h) section 116 (statement of policy).

(7) Section 110 shall, in its application by virtue of subsection (6), have effect as if—

(a) subsection (2) were omitted;

(b) in subsection (4), for the words "the publication of the report of the Commission on the reference concerned" there were substituted "the publication by the Commission of a notice under section 16(6) of the Transport Act 2000 in connection with the reference concerned or, if no direction has been given by the Commission under section 15(2) of that Act in connection with the reference concerned and within the period permitted for that purpose, the latest day on which it was possible to give such a direction within the permitted period"; and

(c) in subsection (9) the words from "or section" to "section 65(3))" were omitted.

(8) Section 111(5)(b) shall, in its application by virtue of subsection (6), have effect as if for sub-paragraph (ii) there were substituted—

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(“) if earlier, the day on which a notice is published by the Commission under section 16(6) of the Transport Act 2000 in connection with the reference concerned or, if no direction is given by the Commission under section 15(2) of that Act in connection with the reference concerned and within the period permitted for that purpose, the latest day on which such a direction may be given within the permitted period. ”

(9) Section 117 of the Enterprise Act 2002 (false or misleading information) shall apply in relation to functions of the Competition Commission in connection with the exercise of its functions under section 15 or 16 as it applies in relation to its functions under Part 3 of that Act but as if, in subsections (1)(a) and (2), the words **[**[F7]“the OFT, OFCOM,”**]** and “or the Secretary of State” were omitted.

(10) Provisions of Part 3 of the Enterprise Act 2002 which have effect for the purposes of sections 109 to 117 of that Act (including, in particular, provisions relating to offences and the making of orders) shall, for the purposes of the application of those sections by virtue of subsection (6) or (9), have effect in relation to those sections as applied by virtue of those subsections.

(11) Accordingly, corresponding provisions of this Act shall not have effect in relation to those sections as applied by virtue of those subsections.**]**

Textual Amendments

F6 S. 18 substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 44(5)**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

F7 Words in s. 18(9) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 16 para. 7(3)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Commencement Information

I17 S. 18 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

19 Modification by order under other enactments.

[[F8](1) Where the Office of Fair Trading, the Competition Commission or (as the case may be) the Secretary of State (in this section “the relevant authority”) makes a relevant order, the order may also provide for the modification of the conditions of a licence to such extent as may appear to the relevant authority to be requisite or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.

(2) In subsection (1) above “relevant order” means—

(a) an order under section 75, 83 or 84 of, or paragraph 5, 10 or 11 of Schedule 7 to, the 2002 Act where—

(i) one or more than one of the enterprises which have, or may have, ceased to be distinct enterprises was engaged in the provision of air traffic services; or

(ii) one or more than one of the enterprises which will or may cease to be distinct enterprises is engaged in the provision of air traffic services; or

(b) an order under section 160 or 161 of that Act where the feature, or combination of features, of the market in the United Kingdom for goods or services which

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prevents, restricts or distorts competition relates to the provision of air traffic services.**]**

(5) As soon as practicable after making modifications under this section the **[**[F9]relevant authority**]** must send a copy of them to the licence holder and a copy to the CAA.

[[F10](6) Expressions used in subsection (2) above and in Part 3 or (as the case may be) Part 4 of the 2002 Act have the same meanings in that subsection as in that Part.**]**

(7) The **[**[F11]2002 Act is the Enterprise Act 2002**]**.

Textual Amendments

F8 S. 19(1)(2) substituted for s. 19(1)-(4) (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 9 para. 15(2)**; S.I. 2003/1397, art. 2(1), Sch.

F9 Words in s. 19(5) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 9 para. 15(3)**; S.I. 2003/1397, art. 2(1), Sch.

F10 S. 19(6) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 9 para. 15(4)**; S.I. 2003/1397, art. 2(1), Sch.

F11 Words in s. 19(7) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 9 para. 15(5)**; S.I. 2003/1397, art. 2(1), Sch.

Modifications etc. (not altering text)

C1 S. 19(2)(a) modified (20.6.2003) by The Enterprise Act 2002 (Protection of Legitimate Interests) Order 2003 (S.I. 2003/1592), art. 1(1), **Sch. 4 para. 17**

Commencement Information

I18 S. 19 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Enforcement

20 Orders for securing compliance.

(1) If the CAA is satisfied that a licence holder is contravening or is likely to contravene a section 8 duty or a licence condition it must make a final order containing provision it thinks is needed to secure compliance with the duty or condition.

(2) If the CAA is not so satisfied but it appears to it that a licence holder is contravening or is likely to contravene a section 8 duty or a licence condition and that a provisional order is needed, it must make a provisional order containing provision it thinks is needed to secure compliance with the duty or condition.

(3) In deciding whether a provisional order is needed the CAA must have regard in particular to—

(a) the extent to which any person is likely to sustain loss or damage as a result of anything likely to be done or omitted in contravention of the section 8 duty or licence condition unless a provisional order is made, and

(b) the fact that the only remedy for a contravention of a section 8 duty or licence condition is under this section and section 24 (unless there is an act or omission which takes place in the course of the provision of air traffic services).

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(4) A final or provisional order must require the licence holder to do or not to do specified things or things of a specified description.

(5) A final or provisional order—
- (a) takes effect at a time determined by or under the order;
- (b) must secure that that time is the earliest practicable time;
- (c) may be revoked at any time by the CAA.

(6) A final order continues to have effect until such time (if any) as the CAA revokes it.

(7) A provisional order ceases to have effect at the termination time, and that is the earlier of—
- (a) the end of the period (not exceeding three months) which is determined by or under the order and which starts when it takes effect;
- (b) such time (if any) as the CAA revokes it.

(8) But if the CAA confirms a provisional order under subsection (9) before the termination time it continues to have effect until such time (if any) as the CAA revokes it.

(9) The CAA must confirm a provisional order (with or without modifications) if—
- (a) it is satisfied that the licence holder is contravening or is likely to contravene a section 8 duty or a licence condition, and
- (b) it thinks its confirmation (with any modifications) is needed to secure compliance with the duty or condition.

(10) In relation to a licence holder—
- (a) a section 8 duty is a duty imposed on the holder by section 8;
- (b) a licence condition is a condition of the licence concerned.

(11) In sections 21 to 25 any reference to a section 8 duty or to a licence condition or to a final or provisional order must be construed in accordance with this section.

(12) This section has effect subject to section 21.

Commencement Information

I19 S. 20 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

21 Exceptions.

(1) The CAA must not make a final order or make or confirm a provisional order if it is satisfied that—
- (a) the duty imposed on it by section 2 precludes it from doing so, or
- (b) the most appropriate way of proceeding is under the [M8]Competition Act 1998.

(2) If the CAA is satisfied that any of the conditions in subsection (3) applies it must not make a final order or make or confirm a provisional order unless it believes that it is appropriate to do so.

(3) The conditions are that—

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(a) the licence holder has agreed to take and is taking all the steps the CAA thinks appropriate to secure or facilitate compliance with the duty or condition concerned;
(b) the contraventions or apprehended contraventions are trivial;
(c) the contraventions or apprehended contraventions will not adversely affect the interests of the persons referred to in subsection (4);
(d) the Secretary of State has made an application under section 28 for an air traffic administration order in relation to the licence holder.

(4) The persons are operators and owners of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them.

(5) These interests are the only ones to be considered under subsection (3)(c)—
(a) interests regarding safety;
(b) interests regarding the range, availability, continuity, cost and quality of air traffic services.

Commencement Information
I20 S. 21 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations
M8 1998 c. 41.

22 Procedural requirements.

(1) Before making a final order or confirming a provisional order the CAA must—
(a) publish a notice in such manner as it thinks appropriate for bringing the matters to which the notice relates to the attention of persons likely to be affected by them,
(b) serve on the licence holder a copy of the notice and a copy of the order proposed (or proposed to be confirmed), and
(c) consider any representations made in accordance with the notice (and not withdrawn).

(2) The notice must—
(a) state that the CAA proposes to make or confirm the order and state its effect,
(b) state the section 8 duty or licence condition with which the order is intended to secure compliance, the acts or omissions which the CAA thinks constitute (or would constitute) contraventions of the duty or condition, and any other facts which it thinks justify the making or confirmation of the order, and
(c) state the period (not less than 21 days starting with the date of publication of the notice) within which representations may be made regarding the proposed order or confirmation.

(3) The CAA must not make a final order with modifications, or confirm a provisional order with modifications, unless—
(a) the licence holder consents to the modifications, or
(b) subsection (4) is complied with.

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(4) This subsection is complied with if the CAA—

(a) serves on the licence holder a notice of the proposal to make or confirm the order with modifications,

(b) states in the notice the period (not less than seven days starting with the date of the service of the notice) within which representations may be made regarding the proposed modifications, and

(c) considers any representations made in accordance with the notice (and not withdrawn).

(5) But if the modifications are trivial the CAA must be treated as complying with subsection (4) if it serves on the licence holder a notice of the proposal to make or confirm the order with modifications.

(6) As soon as practicable after making a final order or making or confirming a provisional order the CAA must—

(a) serve a copy of the order on the licence holder and a copy on the Secretary of State, and

(b) publish the order in such manner as the CAA thinks appropriate for bringing it to the attention of persons likely to be affected by it.

(7) Before revoking a final order or a provisional order which has been confirmed the CAA must—

(a) publish a notice in such manner as it thinks appropriate for bringing the revocation to the attention of persons likely to be affected by it,

(b) serve a copy of the notice on the licence holder, and

(c) consider any representations made in accordance with the notice (and not withdrawn).

(8) The notice must—

(a) state that the CAA proposes to revoke the order and state its effect, and

(b) state the period (not less than 21 days starting with the date of publication of the notice) within which representations may be made regarding the proposed revocation.

(9) If after acting under subsection (7) the CAA decides not to revoke the order it must—

(a) publish a notice of its decision in such manner as it thinks appropriate for bringing the decision to the attention of persons likely to be affected by it, and

(b) serve a copy of the notice on the licence holder.

(10) If the CAA is satisfied as mentioned in section 21(1) it must—

(a) serve a notice that it is so satisfied on the licence holder, and

(b) publish the notice in such manner as it thinks appropriate for bringing the matters to which the notice relates to the attention of persons likely to be affected by them.

(11) If the CAA is satisfied as mentioned in section 21(2) and it does not believe it is appropriate to make a final order or make or confirm a provisional order, it must—

(a) serve a notice to that effect on the licence holder, and

(b) publish the notice in such manner as it thinks appropriate for bringing the matters to which the notice relates to the attention of persons likely to be affected by them.

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Commencement Information

I21 S. 22 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

23 Validity of orders.

(1) This section applies if a licence holder to which a final or provisional order relates is aggrieved by the order and wants to question its validity on the ground that—

(a) its making or confirmation was not within the powers conferred by sections 20 and 21, or

(b) any of the requirements of section 22(1) to (6) have not been complied with.

(2) The licence holder may apply to the court.

(3) If a copy of the order as made or confirmed was served on the licence holder the application to the court must be made within the period of 42 days starting with the day the copy was served on it.

(4) On an application under this section the court may quash the order or any provision of it if satisfied that—

(a) the making or confirmation of the order was not within the powers conferred by sections 20 and 21, or

(b) the interests of the licence holder have been substantially prejudiced by a failure to comply with the requirements of section 22(1) to (6).

(5) Except as provided by this section, the validity of a final or provisional order may not be questioned in any legal proceedings.

(6) A reference to the court is to—

(a) the High Court in relation to England and Wales or Northern Ireland;

(b) the Court of Session in relation to Scotland.

Commencement Information

I22 S. 23 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

24 Effect of orders.

(1) The licence holder to which a final or provisional order relates has a duty to comply with it.

(2) The duty is owed to any person who may be affected by a contravention of the order.

(3) A breach of the duty which causes such a person to sustain loss or damage is actionable by him.

(4) In proceedings brought against a licence holder under subsection (3) it is a defence for it to prove that it took all reasonable steps and exercised all due diligence to avoid contravening the order.

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(5) Compliance with a final or provisional order is also enforceable by civil proceedings brought by the CAA for an injunction or for interdict or for any other appropriate relief or remedy.

(6) Subsection (5) does not prejudice a right a person may have by virtue of subsection (3) to bring civil proceedings for contravention or apprehended contravention of a final or provisional order.

Commencement Information

I23 S. 24 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

25 Power to obtain information.

(1) This section applies if it appears to the CAA that a licence holder may have contravened or may be contravening or is likely to contravene a section 8 duty or a licence condition.

(2) For any purpose connected with such of the CAA's functions under sections 20 and 21 as are exercisable in relation to the matter it may serve on any person a notice which—

(a) requires the person to produce any documents which are specified or described in the notice and are in his custody or under his control, and to produce them at a time and place so specified and to a person so specified, or

(b) requires the person to supply information specified or described in the notice, and to supply it at a time and place and in a form and manner so specified and to a person so specified.

(3) A requirement may be made under subsection (2)(b) only if the person is carrying on a business.

(4) No person may be required under this section—

(a) to produce documents which he could not be compelled to produce in civil proceedings in the court;

(b) to supply information which he could not be compelled to supply in such proceedings.

(5) If a person without reasonable excuse fails to do anything required of him by a notice under subsection (2) he is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) If a person intentionally alters, suppresses or destroys a document which he has been required to produce by a notice under subsection (2) he is guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(7) If a person makes default in complying with a notice under subsection (2) the court may on the CAA's application make such order as the court thinks fit for requiring the default to be made good.

(8) An order under subsection (7) may provide that all the costs or expenses of and incidental to the application are to be borne—

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(a) by the person in default, or
(b) if officers of a company or other association are responsible for its default, by those officers.

(9) A reference to producing a document includes a reference to producing a legible and intelligible copy of information recorded otherwise than in legible form.

(10) A reference to suppressing a document includes a reference to destroying the means of reproducing information recorded otherwise than in legible form.

(11) A reference to the court is to—
(a) the High Court in relation to England and Wales or Northern Ireland;
(b) the Court of Session in relation to Scotland.

Commencement Information
I24 S. 25 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Administration orders etc.

26 Protection of licence companies etc.

(1) No licence company may be wound up voluntarily.

(2) No application may be made to a court for an administration order under Part II of the 1986 Act in relation to a licence company, and—
(a) anything purporting to be such an application is of no effect;
(b) no administration order may be made under that Part in relation to a licence company.

(3) No step may be taken by a person to enforce any security over the property of a licence company unless the person has given to the Secretary of State and the CAA at least 14 days' notice of his intention to take the step.

(4) No application for the winding up of a licence company may be made by a person other than the Secretary of State unless the person has given to the Secretary of State and the CAA at least 14 days' notice of his intention to make the application.

(5) In subsection (3) "security" and "property" have the same meanings as in Parts I to VII of the 1986 Act.

(6) In this section and sections 27 to 30—
(a) references to a licence company are to a company which holds a licence;
(b) references to the 1986 Act are to the [M9]Insolvency Act 1986.

Commencement Information
I25 S. 26 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

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Marginal Citations

M9 1986 c. 45.

27 Duty to make order.

(1) This section applies if an application is made to any court for the winding up of a licence company.

(2) The Secretary of State and the CAA are entitled to be heard by the court.

(3) The court must not make a winding up order or appoint a provisional liquidator.

(4) But if the court is satisfied that it would be appropriate to make a winding up order if the company were not a licence company, it must instead make an air traffic administration order.

(5) The Secretary of State and the CAA may propose a person to manage the company's affairs, business and property while an air traffic administration order is in force; and if they do the court must appoint that person.

(6) A reference to the court is to the court which (but for this section) would have jurisdiction to wind up the company.

Commencement Information

I26 S. 27 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

28 Power to make order.

(1) The court may make an air traffic administration order in relation to a licence company if—

(a) an application by petition is made by the Secretary of State or by the CAA with his consent, and

(b) the court is satisfied that one or more of the following four conditions is satisfied.

(2) The first condition is that the company is or is likely to be unable to pay its debts.

(3) The second condition is that—

(a) the Secretary of State certifies that but for section 27 it would be appropriate for him to petition for the company's winding up under section 124A of the 1986 Act (petition following inspectors' report etc), and

(b) but for section 27 it would be just and equitable (as mentioned in section 124A) for the company to be wound up.

(4) The third condition is that—

(a) there has been or is or is likely to be a contravention by the company of a section 8 duty,

(b) no notice has been served under section 22(10) or (11) in relation to the contravention or apprehended contravention, and

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(c) the contravention or apprehended contravention is serious enough to make it inappropriate for the company to continue to hold the licence concerned.

(5) The fourth condition is that—

(a) a final or provisional order has been made or confirmed in relation to a section 8 duty or a licence condition,

(b) the order is not the subject of proceedings under section 23, and

(c) there has been or is or is likely to be such a contravention of the order by the company as to make it inappropriate for it to continue to hold the licence concerned.

(6) For the purposes of subsection (2) a company is unable to pay its debts if it is deemed to be unable to do so under section 123 of the 1986 Act.

(7) A reference in subsection (4) or (5) to a section 8 duty or to a licence condition or to a final or provisional order is to be construed in accordance with section 20.

(8) A reference to the court is to the court which (but for section 27) would have jurisdiction to wind up the company.

Commencement Information

I27 S. 28 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

29 Air traffic administration orders.

(1) An air traffic administration order made under section 27 or 28 is an order directing that in the period while the order is in force the company's affairs, business and property are to be managed by a person appointed by the court—

(a) for the achievement of the following two purposes, and

(b) in a manner which protects the interests of the company's members and creditors.

(2) The first purpose is—

(a) the transfer to another company, as a going concern, of so much of the licence company's undertaking as it is necessary to transfer to ensure that its licensed activities may be properly carried out, or

(b) the transfer to different companies of different parts of the licence company's undertaking, as going concerns, where the parts together constitute so much of its undertaking as is described in paragraph (a).

(3) The second purpose is the carrying on, pending the transfer, of the licence company's licensed activities.

(4) A reference to a licence company's licensed activities is to the activities which the licence concerned authorises the company to carry out.

(5) In subsection (1) "business" and "property" have the same meanings as in the 1986 Act.

(6) The reference in subsection (1) to the court is to the court making the order.

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Commencement Information

I28 S. 29 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

30 Petitions and orders: supplementary.

(1) A petition under section 28 above cannot be withdrawn except with the court's leave.

(2) Section 9(4) and (5) of the 1986 Act (court's powers) apply on the hearing of a petition under section 28 above as they apply on the hearing of a petition for an administration order.

(3) Section 10(1), (2), (4) and (5) of the 1986 Act (effect of petition) apply in the case of a petition under section 28 above as if—

(a) the reference in subsection (1) to an administration order were to an air traffic administration order;

(b) the reference in subsection (1)(c) to proceedings included a reference to proceedings under or for the purposes of section 20 above;

(c) in subsection (1)(c) after "its property" there were inserted " , and no right of re-entry or forfeiture may be enforced against the company in respect of any land, ";

(d) subsection (2)(b) and (c) were omitted.

(4) Schedules 1 and 2 contain provisions relating to air traffic administration orders.

(5) The power given by section 411 of the 1986 Act to make rules applies for the purpose of giving effect to the air traffic administration order provisions as it applies for the purpose of giving effect to Parts I to VII of that Act, but taking references to those Parts as references to those provisions.

(6) The air traffic administration order provisions are sections 27 to 29, this section and Schedules 1 and 2.

(7) The reference in subsection (1) to the court is to the court to which the application by petition is made.

Commencement Information

I29 S. 30 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

31 Government financial help.

(1) If an air traffic administration order is in force in relation to a company the Secretary of State may—

(a) make grants or loans to the company of such sums as he thinks appropriate to facilitate the achievement of the order's purposes;

(b) agree to indemnify the air traffic administrator in respect of liabilities incurred and loss or damage sustained by him in connection with carrying out his functions under the order.

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(2) The Secretary of State may guarantee, in such manner and on such terms as he thinks fit, the repayment of the principal of, the payment of interest on and the discharge of any other financial obligation in connection with any sum borrowed from any person by a company in relation to which an air traffic administration order is in force when the guarantee is given.

(3) The terms on which a grant is made under this section may require all or part of it to be repaid to the Secretary of State if there is a contravention of the other terms on which it is made.

(4) A loan made under this section must be repaid to the Secretary of State at such times and by such methods, and interest must be paid to him at such rates and times, as may be specified in directions given by him from time to time.

(5) Subsections (3) and (4) do not prejudice any provision applied in relation to the company by Schedule 1.

(6) A grant, loan, agreement to indemnify, guarantee or direction under this section requires the Treasury's consent.

(7) The air traffic administrator is the person appointed by the court to achieve the purposes of the air traffic administration order.

Commencement Information

I30 S. 31 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

32 Guarantees under section 31.

(1) This section applies to a guarantee given under section 31.

(2) Immediately after a guarantee is given the Secretary of State must lay a statement of it before each House of Parliament.

(3) If a sum is paid out for fulfilling a guarantee, as soon as possible after the end of each relevant financial year the Secretary of State must lay a statement relating to the sum before each House of Parliament.

(4) If any sums are paid out for fulfilling a guarantee the borrowing company must make to the Secretary of State at such times and in such manner as may be specified in directions given by him from time to time—

(a) payments of such amounts as he may specify in such directions in or towards repayment of the sums paid out, and

(b) payments of interest at such rate as he may specify in such directions on what is outstanding in respect of sums paid out.

(5) Subsection (4) does not prejudice any provision applied in relation to the borrowing company by Schedule 1.

(6) A direction under this section requires the Treasury's consent.

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(7) Relevant financial years are financial years starting with that in which the sum is paid out and ending with that in which all liability in respect of the principal of the sum and interest on it is finally discharged.

(8) The borrowing company is the company which borrowed the sums in respect of which the guarantee was given.

Commencement Information

I31 S. 32 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

33 Northern Ireland.

Schedule 3 contains provisions relating to Northern Ireland.

Commencement Information

I32 S. 33 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Miscellaneous

34 Investigations.

(1) The CAA must investigate an alleged or apprehended contravention of a section 8 duty or of a condition of a licence if the alleged or apprehended contravention is the subject of a representation made to the CAA by or on behalf of a person who appears to it to have an interest in the matter.

(2) But this does not apply if the representation appears to the CAA to be frivolous or vexatious.

(3) A section 8 duty is a duty imposed on a licence holder by section 8.

Commencement Information

I33 S. 34 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

35 Register.

(1) The CAA must compile and maintain a register for the purposes of this Chapter.

(2) The register must be kept at such premises and in such form as the CAA decides.

(3) The CAA must cause these matters to be entered in the register—

(a) the provisions of every exemption;

(b) the provisions of every licence;

(c) every modification of the conditions of a licence;

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(d) every revocation or surrender of a licence;

(e) the provisions of every requirement or determination made or direction, consent or approval given under a licence;

(f) the terms of every notice given under section 9;

(g) the terms of every final or provisional order made under section 20, every revocation of such an order, and every notice under section 22(10) or (11).

(4) The duty in subsection (3) does not extend to anything of which the CAA is unaware.

(5) So far as practicable the CAA must secure the exclusion from the register of any matter relating to the affairs of a person if the CAA thinks its inclusion would or might seriously and prejudicially affect the person's interests.

(6) If the Secretary of State thinks that entry of anything in the register would be against the public interest or any person's commercial interests, he may give a direction to the CAA requiring the CAA not to enter it.

(7) The CAA must secure that the contents of the register are available for inspection by the public during such hours as may be specified in an order made by the Secretary of State.

(8) If requested by any person to do so the CAA must supply him with a copy (certified to be true) of the register or of an extract from it.

(9) But subsection (8) does not apply if a charge required by a scheme or regulations made under section 11 of the [M10]Civil Aviation Act 1982 is not paid.

Commencement Information

I34 S. 35 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M10 1982 c. 16.

36 Land.

Schedule 4 gives licence holders powers in relation to land.

37 Licence holders as statutory undertakers.

Schedule 5 contains provisions treating licence holders as statutory undertakers.

38 Directions in interests of national security etc.

(1) The Secretary of State may give to a licence holder or to licence holders generally such directions of a general character as he thinks are necessary or expedient—

(a) in the interests of national security, or

(b) in the interests of encouraging or maintaining the United Kingdom's relations with another country or territory.

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(2) The Secretary of State may give to a licence holder a direction requiring it to do or not to do a particular thing, if the Secretary of State thinks it necessary or expedient to give the direction in the interests of national security.

(3) The Secretary of State may give to a licence holder a direction requiring it—

(a) to do or not to do a particular thing in connection with anything authorised by the licence, or

(b) to secure that a particular thing is done or not done in connection with anything authorised by the licence,

if the Secretary of State thinks it necessary or expedient to give the direction in order to discharge or facilitate the discharge of an international obligation of the United Kingdom.

(4) In exercising his powers under subsections (1) to (3) the Secretary of State must have regard to the need to maintain a high standard of safety in the provision of air traffic services.

(5) In so far as a direction under this section conflicts with the requirements of section 93 or of an order under section 94, the direction is to be disregarded.

(6) In so far as a direction under this section conflicts with the requirements of an enactment or instrument other than section 93 or an order under section 94, the requirements are to be disregarded.

(7) Before giving a direction under this section to a particular licence holder (as opposed to licence holders generally) the Secretary of State must consult it.

(8) The Secretary of State must send a copy of a direction under this section to the CAA.

(9) The Secretary of State must lay before each House of Parliament a copy of a direction under this section unless he thinks its disclosure is against the interests of national security or the interests of the United Kingdom's relations with another country or territory or the commercial interests of any person.

(10) A person must not disclose, and is not required by any enactment or otherwise to disclose, a direction given or other thing done by virtue of this section if the Secretary of State notifies him that he thinks disclosure is against the interests of national security or the interests of the United Kingdom's relations with another country or territory or the commercial interests of any person (other than the person notified).

(11) A person commits an offence if—

(a) without reasonable excuse he contravenes or fails to comply with a direction under this section, or

(b) he makes a disclosure in contravention of subsection (10).

(12) A person who commits an offence under this section is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both.

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Commencement Information

I35 S. 38 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

39 Directions relating to the environment.

(1) The Secretary of State may give such directions as he thinks are necessary or expedient—

(a) to prevent or deal with noise, vibration, pollution or other disturbance attributable to aircraft used for the purpose of civil aviation;

(b) to limit or mitigate the effects of such noise, vibration, pollution or disturbance.

(2) Directions under this section may be given to—

(a) a licence holder or licence holders generally;

(b) a person who is authorised by an exemption to provide air traffic services (an authorised person) or authorised persons generally.

(3) A direction under this section may be of a general character or may require a licence holder or an authorised person to do or not to do a particular thing.

(4) A direction under this section may include provision requiring persons to have regard to guidance which relates to the environment and which the Secretary of State may issue from time to time.

(5) In so far as a direction under this section conflicts with the requirements of section 38 or 93 or of an order under section 94, the direction is to be disregarded.

(6) In so far as a direction under this section conflicts with the requirements of an enactment or instrument other than section 38 or 93 or an order under section 94, the requirements are to be disregarded.

(7) Before giving a direction under this section to a particular licence holder or authorised person (as opposed to licence holders or authorised persons generally) requiring him to do or not to do a particular thing, the Secretary of State must consult—

(a) that licence holder or authorised person;

(b) the CAA.

Commencement Information

I36 S. 39 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Interpretation

40 Interpretation.

(1) This section defines these expressions (here listed alphabetically) for the purposes of this Chapter—

(a) aerodrome;

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(b) condition of a licence;
(c) exemption;
(d) licence;
(e) licence holder;
(f) managed area;
(g) manager of an aerodrome;
(h) modification.

(2) An aerodrome is an aerodrome as defined in section 105(1) of the [M11]Civil Aviation Act 1982; and a manager of an aerodrome is a person who is in charge of it or holds a licence granted in respect of it by virtue of section 60 of that Act (Chicago Convention, regulation of air navigation etc).

(3) These are managed areas—
(a) the United Kingdom;
(b) any area which is outside the United Kingdom but in respect of which the United Kingdom has undertaken under international arrangements to provide air traffic services.

(4) An exemption is an exemption under this Chapter.

(5) A licence is a licence under this Chapter, and references to a licence holder must be construed accordingly.

(6) A condition of a licence is a provision of the licence which is expressed as a condition.

(7) "Modification" includes addition, alteration and omission, and cognate expressions are to be construed accordingly.

Commencement Information

I37 S. 40 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M11 1982 c. 16.

CHAPTER II

TRANSFER SCHEMES

Introduction

41 Meaning of transfer scheme.

(1) For the purposes of this Chapter a transfer scheme is a scheme which contains provisions falling within one or more of subsections (2) to (8).

(2) Provisions falling within this subsection are ones for the transfer of any of the CAA's property, rights or liabilities or of all or part of its undertaking to any of the following—
(a) the Secretary of State;

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(b) a company which is wholly owned by the Crown;
(c) a company which is wholly owned by the CAA;
(d) a company which is a wholly owned subsidiary of a company falling within paragraph (b) or (c).

(3) Provisions falling within this subsection are ones for the transfer of any of the property, rights or liabilities of a company (the transferor) which is wholly owned by the CAA or of all or part of the transferor's undertaking to any of the following—
(a) the Secretary of State;
(b) the CAA;
(c) a company which is wholly owned by the Crown;
(d) a company which is wholly owned by the CAA;
(e) a company which is a wholly owned subsidiary of a company falling within paragraph (c) or (d).

(4) Provisions falling within this subsection are ones for the transfer of any of the property, rights or liabilities of a company (the transferor) which is a wholly owned subsidiary of a company wholly owned by the CAA, or of all or part of the transferor's undertaking, to any of the following—
(a) the CAA;
(b) a company which is wholly owned by the Crown;
(c) a company which is wholly owned by the CAA;
(d) a company which is a wholly owned subsidiary of a company falling within paragraph (b) or (c).

(5) Provisions falling within this subsection are ones for the transfer of any of the property, rights or liabilities of a company (the transferor) which is wholly owned by the Crown but which was wholly owned by the CAA on the coming into force of this section, or of all or part of the transferor's undertaking, to any of the following—
(a) a company which is wholly owned by the Crown;
(b) a company which is a wholly owned subsidiary of the transferor.

(6) Provisions falling within this subsection are ones for the transfer of any of the property, rights or liabilities of a company (the transferor) which is wholly owned by the Crown, or of all or part of the transferor's undertaking, to the CAA.

(7) Provisions falling within this subsection are ones for the transfer of any of the property, rights or liabilities of a company (the transferor) in circumstances where the transferor is a wholly owned subsidiary of a company (the holding company) wholly owned by the Crown and the holding company was wholly owned by the CAA on the coming into force of this section, or of all or part of the transferor's undertaking, to any of the following—
(a) a company which is wholly owned by the Crown;
(b) a company which is a wholly owned subsidiary of a company falling within paragraph (a).

(8) Provisions falling within this subsection are ones for the transfer of any of the property, rights or liabilities of a company (the transferor) which is a wholly owned subsidiary of a company wholly owned by the Crown, or of all or part of the transferor's undertaking, to the CAA.

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Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

(9) To the extent that a scheme provides for the transfer of all or part of an undertaking, references in the following provisions of this Chapter to property, rights and liabilities are to the undertaking or part (including property, rights and liabilities falling within it).

Commencement Information

I38 S. 41 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

42 Transfer schemes: supplementary.

(1) The things which may be transferred by a transfer scheme include—

(a) anything which the transferor would not otherwise be capable of transferring or assigning;

(b) anything to which the transferor may become entitled or subject after the scheme is made and before it comes into force;

(c) anything situated anywhere in the United Kingdom or elsewhere;

(d) anything subsisting under an enactment;

(e) anything subsisting under the law of any part of the United Kingdom or of any country or territory outside the United Kingdom.

(2) A scheme may divide any property, rights or liabilities of a transferor and in connection with the division may—

(a) create for a transferor or transferee an interest in any property to which the scheme relates;

(b) create new rights and liabilities as between a transferor and a transferee with respect to any property to which the scheme relates;

(c) in connection with any provision made by virtue of paragraph (a) or (b), make incidental provision as to the interests, rights and liabilities of other persons with respect to any property to which the scheme relates.

(3) A scheme may impose obligations on a transferor and transferee to take any necessary steps to secure that the following have effect—

(a) any interest, right or liability created by virtue of subsection (2)(a) or (b);

(b) any incidental provision made by virtue of subsection (2)(c).

(4) A scheme may—

(a) impose on a transferor or transferee an obligation to enter into a specified written agreement with a specified person or persons (who may be or include a transferor or transferee);

(b) impose on a transferor or transferee an obligation to execute a specified instrument in favour of a specified person or persons (who may be or include a transferor or transferee);

(c) make provision (for instance, where part of particular property is transferred) that rights and liabilities specified or identified in the scheme are enforceable by or against a transferor or transferee (or both).

(5) A scheme may make such supplementary, incidental, consequential or transitional provisions as the scheme's maker thinks are appropriate.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
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Commencement Information

I39 S. 42 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

CAA's schemes

43 Transfer schemes made by CAA.

(1) After consulting the CAA the Secretary of State may give a direction requiring it to make a transfer scheme.

(2) A direction may specify how a scheme is to be made and the time within which it is to be made and submitted to the Secretary of State (as well as what is to be transferred, the transferor and the transferee).

(3) In so far as a direction conflicts with the requirements of an enactment or instrument, the requirements are to be disregarded.

(4) No direction may be given under this section before the end of the period of three months starting with the day on which this Act is passed.

Commencement Information

I40 S. 43 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

44 Effect of scheme made by CAA.

(1) This section applies to a scheme made under section 43.

(2) A scheme does not come into force unless the Secretary of State approves it in writing.

(3) Subject to that, a scheme comes into force on—
  (a) the day it specifies for it to come into force, or
  (b) if the approval specifies a day for it to come into force, that day.

(4) The Secretary of State may modify a scheme before approving it and after consulting each person who is a transferor or a transferee.

(5) When a scheme comes into force it has effect to transfer (in accordance with its provisions) the property, rights and liabilities to which it applies.

(6) Any transferor or transferee (other than the Secretary of State) must provide the Secretary of State with any information and other assistance he may reasonably require in connection with his powers to approve and modify under this section.

(7) If a body fails without reasonable excuse to comply with subsection (6) it is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(8) In this section "modify" includes add to, omit from and otherwise alter.

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(9) No approval may be given under this section before the end of the period of three months starting with the day on which this Act is passed.

Commencement Information

I41 S. 44 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Secretary of State's schemes

45 Transfer schemes made by Secretary of State.

(1) This section applies if—

(a) the CAA fails to submit a transfer scheme within the time specified in a direction under section 43, or

(b) the Secretary of State does not approve a transfer scheme submitted by the CAA.

(2) In such a case the Secretary of State may make a transfer scheme after consulting each person who is a transferor or a transferee.

(3) A scheme made under this section comes into force on the day it specifies for it to come into force.

(4) When the scheme comes into force it has effect to transfer (in accordance with its provisions) the property, rights and liabilities to which it applies.

(5) No scheme may be made under this section before the end of the period of three months starting with the day on which this Act is passed.

Commencement Information

I42 S. 45 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

46 Information for purposes of section 45.

(1) If the Secretary of State proposes to make a transfer scheme he may give a direction to an interested body requiring it—

(a) to provide him with such information as he thinks necessary to enable him to make the scheme, and

(b) to do so within the period (not less than 28 days starting with the date on which the direction is given) specified in the direction.

(2) These are interested bodies—

(a) the CAA;

(b) a company which is wholly owned by the Crown;

(c) a company which is wholly owned by the CAA;

(d) a company which is a wholly owned subsidiary of a company falling within paragraph (b) or (c).

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
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(3) If a body fails to comply with a direction under subsection (1) the Secretary of State may serve on it a notice which—
  (a) requires it to produce any documents which are specified or described in the notice and are in its custody or under its control, and to produce them at a time and place so specified and to a person so specified, or
  (b) requires it to supply information specified or described in the notice, and to supply it at a time and place and in a form and manner so specified and to a person so specified.

(4) No body may be required under this section—
  (a) to produce documents which it could not be compelled to produce in civil proceedings in the court;
  (b) to supply information which it could not be compelled to supply in such proceedings.

(5) If a body fails without reasonable excuse to do anything required of it by a notice under subsection (3) it is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) If a body intentionally alters, suppresses or destroys a document which it has been required to produce by a notice under subsection (3) it is guilty of an offence and liable—
  (a) on summary conviction, to a fine not exceeding the statutory maximum;
  (b) on conviction on indictment, to a fine.

(7) If a body makes default in complying with a notice under subsection (3) the court may on the Secretary of State's application make such order as the court thinks fit for requiring the default to be made good.

(8) An order under subsection (7) may provide that all the costs or expenses of and incidental to the application are to be borne—
  (a) by the body in default, or
  (b) if officers of the body are responsible for its default, those officers.

(9) A reference to producing a document includes a reference to producing a legible and intelligible copy of information recorded otherwise than in legible form.

(10) A reference to suppressing a document includes a reference to destroying the means of reproducing information recorded otherwise than in legible form.

(11) A reference to the court is to—
  (a) the High Court in relation to England and Wales or Northern Ireland;
  (b) the Court of Session in relation to Scotland.

Commencement Information

I43 S. 46 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

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Accounting provisions

47 Accounting provisions.

(1) This section applies if any property, rights or liabilities are transferred under a transfer scheme—

(a) from the CAA to a company,

(b) from a company to the CAA, or

(c) from a company to a company.

(2) The transfer scheme may state—

(a) the value at which any asset transferred to the transferee under the scheme is to be entered in the opening accounts of the transferee;

(b) the amount at which any liability so transferred is to be entered in those accounts.

(3) The value or amount which may be stated by virtue of subsection (2) is—

(a) in a case where the whole of the asset or liability is transferred by the transfer scheme, the value or amount at which the asset or liability appeared in the last full accounts of the transferor;

(b) in a case where part only of the asset or liability is so transferred, such part of the value or amount at which the asset or liability appeared in the last full accounts of the transferor as may be determined by or in accordance with the transfer scheme.

(4) But if the maker of the transfer scheme considers that some other value or amount is appropriate, the value or amount which may be stated by virtue of subsection (2) is that other amount or value.

(5) If no value or amount appeared as mentioned in subsection (3) in the case of an asset or liability, the value or amount which may be stated by virtue of subsection (2) is the value or amount which the maker of the transfer scheme considers appropriate.

(6) The transfer scheme may provide that the amount to be included in the opening accounts of the transferee as representing its accumulated realised profits is to be determined as if such proportion of any profits realised and retained by the transferor as may be determined by or in accordance with the transfer scheme had been realised and retained by the transferee.

(7) The transfer scheme may provide that the amount to be included in the opening accounts of the transferee as representing its accumulated realised losses is to be determined as if such proportion of any accumulated realised losses of the transferor as may be determined by or in accordance with the transfer scheme had been losses realised by the transferee.

(8) When the transfer scheme comes into force a statement or provision under subsection (2), (6) or (7) has effect to require any value or amount concerned to be entered or determined accordingly.

Commencement Information

I44 S. 47 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

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48 Accounting provisions: interpretation.

(1) This section applies for the purposes of section 47.

(2) The opening accounts of the transferee are—

(a) if the transferee is the CAA, the annual accounts prepared by it in accordance with section 15 of the [M12]Civil Aviation Act 1982 for the accounting year next ending after the transfer date;

(b) if the transferee is a company, any statutory accounts prepared by it for the accounting year next ending after the transfer date.

(3) The last full accounts of the transferor are—

(a) if the transferor is the CAA, the annual accounts prepared by it in accordance with section 15 of the [M13]Civil Aviation Act 1982 for the accounting year last ended before the making of the transfer scheme;

(b) if the transferor is a company, the statutory accounts of the company for the accounting year last ended before the making of the transfer scheme.

(4) An accounting year is—

(a) in the case of the CAA, the period of 12 months ending with 31 March in any year;

(b) in the case of a company, its financial year within the meaning of **[**[F12]the Companies Act 2006**]**.

(5) Statutory accounts are accounts prepared by a company for the purpose of any provision of **[**[F13]the Companies Act 2006**]** (including group accounts).

Textual Amendments

F12 Words in s. 48(4)(b) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), **Sch. 1 para. 218(2)** (with arts. 6, 11, 12)

F13 Words in s. 48(5) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), **Sch. 1 para. 218(2)** (with arts. 6, 11, 12)

Commencement Information

I45 S. 48 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M12 1982 c. 16.

M13 1982 c. 16.

Ownership of transferee companies

49 Issue of securities.

(1) This section applies if any property, rights or liabilities are transferred under a transfer scheme to a transferee which at the time of the transfer is a company falling within subsection (4).

(2) The Secretary of State may give a direction under this section to the transferee if when the direction is given it is a company falling within subsection (4).

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(3) A direction under this section is one requiring the transferee—

(a) to issue to the appropriate person such securities of the transferee as are specified in the direction,

(b) to do so at a time or times (specified in the direction) when it is a company falling within subsection (4), and

(c) to do so on such terms as are specified in the direction.

(4) A company falls within this subsection if it is—

(a) a company which is wholly owned by the Crown,

(b) a company which is wholly owned by the CAA, or

(c) a company which is a wholly owned subsidiary of a company falling within paragraph (a) or (b).

(5) The appropriate person is such of the following as the Secretary of State may specify in the direction—

(a) the transferor;

(b) the Secretary of State;

(c) the CAA;

(d) a company which is wholly owned by the Crown;

(e) a company which is wholly owned by the CAA;

(f) a company which is a wholly owned subsidiary of a company falling within paragraph (d) or (e).

(6) Shares issued in pursuance of this section—

(a) must be of such nominal value as may be specified in a direction given by the Secretary of State, and

(b) must be issued as fully paid and treated for the purposes of the [M14]Companies Act 1985 or the [M15]Companies (Northern Ireland) Order 1986 as if they had been paid up by virtue of the payment to the transferee of their nominal value in cash.

Commencement Information

I46 S. 49 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M14 1985 c. 6.

M15 S.I. 1986/1032 (N.I. 6).

50 Government investment in securities.

(1) This section applies if any property, rights or liabilities are transferred under a transfer scheme to a transferee which at the time of the transfer is—

(a) a company which is wholly owned by the Crown,

(b) a company which is wholly owned by the CAA, or

(c) a company which is a wholly owned subsidiary of a company falling within paragraph (a) or (b).

(2) The Treasury or the Secretary of State with the Treasury's consent may—

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(a) acquire securities of the transferee by subscription or purchase;
(b) acquire options to acquire or dispose of securities of the transferee.

(3) The Secretary of State must not dispose of any securities or options acquired under this section without the Treasury's consent.

Commencement Information

I47 S. 50 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

51 Crown shareholding.

(1) This section applies if any property, rights or liabilities are transferred under a transfer scheme to a transferee which at the time of the transfer is—
(a) a company which is wholly owned by the Crown,
(b) a company which is wholly owned by the CAA, or
(c) a company which is a wholly owned subsidiary of a company falling within paragraph (a) or (b).

(2) The Secretary of State may by order designate such a transferee for the purposes of this section.

(3) The Secretary of State must ensure that the Crown does not dispose of any of the shares it holds in the designated company unless he is satisfied that a scheme is in place to ensure the completion of any project which—
(a) concerns the development of major facilities connected with air traffic services, and
(b) was commissioned before the coming into force of this section by the CAA or a company wholly owned by the CAA.

(4) The Secretary of State must ensure that the Crown does not dispose of any of the shares it holds in the designated company unless—
(a) the Crown holds at least 49 per cent of the company's issued ordinary share capital immediately before the disposal, and
(b) the Crown will continue to hold at least 49 per cent of that share capital immediately after the disposal.

(5) The Secretary of State must ensure that at any given time the Crown holds at least 25 per cent of the designated company's issued ordinary share capital.

(6) The Secretary of State must ensure that the Crown continues to hold any special share provided for under the designated company's articles of association.

(7) A special share is a share which can be held only by the Crown and which gives the shareholder the right to prevent certain events by withholding consent.

(8) The Secretary of State must not consent to any alteration of the designated company's articles of association which requires his consent on behalf of the Crown as special shareholder unless a statement of the intended consent has been laid before and approved by resolution of each House of Parliament.

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(9) If a person enters into a transaction relating to shares issued by the designated company—

(a) he need not enquire whether the transaction results in a contravention of subsection (3), (4), (5) or (6), and

(b) his rights in relation to the shares are not to be questioned on the grounds of, or affected by, a contravention of subsection (3), (4), (5) or (6).

(10) Grounds on which the Secretary of State may be satisfied that a scheme is in place as mentioned in subsection (3) include the grounds that the arrangements for the disposal of the shares include provision obliging the person acquiring them to ensure the completion of the project.

(11) For the purposes of this section a project concerns the development of major facilities if (and only if) the Secretary of State thinks that the value of the project is above £200 million.

(12) The Secretary of State may by order amend or repeal this section.

Commencement Information

I48 S. 51 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Transferee companies: other provisions

52 Loans.

(1) This section applies if any property, rights or liabilities are transferred under a transfer scheme to a transferee which at the time of the transfer is a company falling within subsection (3).

(2) With the Treasury's approval the Secretary of State may make loans of such amounts as he thinks fit to the transferee if when the loans are made it is a company falling within subsection (3).

(3) A company falls within this subsection if it is—

(a) a company which is wholly owned by the Crown,

(b) a company which is wholly owned by the CAA, or

(c) a company which is a wholly owned subsidiary of a company falling within paragraph (a) or (b).

(4) If loans are made under this section—

(a) they must be repaid to the Secretary of State at such times and by such methods as he may specify in a direction given with the Treasury's approval;

(b) interest on them must be paid to him at such rates and at such times as may be specified in such a direction.

(5) The Secretary of State must exercise his powers under this section so as to ensure that the aggregate of the amounts outstanding in respect of the principal of loans made under this section does not at any time exceed £1,000 million.

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(6) In respect of each financial year the Secretary of State must prepare, in such form as may be specified in a direction given by the Treasury, an account of—
  (a) sums issued to him out of the National Loans Fund for making loans under this section,
  (b) sums received by him under subsection (4), and
  (c) how he has disposed of those sums.

(7) The Secretary of State must send the account to the Comptroller and Auditor General not later than the end of the month of August in the following financial year.

(8) The Comptroller and Auditor General must examine, certify and report on the account and must lay copies of it and of his report before each House of Parliament.

Commencement Information

I49 S. 52 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

53 Guarantees.

(1) This section applies if any property, rights or liabilities are transferred under a transfer scheme to a transferee which at the time of the transfer is a company falling within subsection (3).

(2) The Treasury or the Secretary of State may guarantee the discharge of any financial obligation of the transferee if when the guarantee is made it is a company falling within subsection (3).

(3) A company falls within this subsection if it is—
  (a) a company which is wholly owned by the Crown,
  (b) a company which is wholly owned by the CAA, or
  (c) a company which is a wholly owned subsidiary of a company falling within paragraph (a) or (b).

(4) In the case of a financial obligation incurred before the giving of a guarantee, it is immaterial when the obligation was incurred.

(5) A guarantee may be given on such terms and in such manner as the Treasury or the Secretary of State decides.

(6) A guarantee may continue to have effect after the transferee has ceased to be a company falling within subsection (3).

(7) The Treasury may not give a guarantee in relation to a financial obligation which is owed by the transferee to the Secretary of State.

(8) A guarantee may not be given unless the Treasury or the Secretary of State has entered into arrangements under which the transferee will be liable to make payments (including payments of interest) in respect of sums issued in fulfilment of the guarantee.

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(9) The Treasury and the Secretary of State must exercise their powers under this section so as to ensure that the aggregate of the amounts of principal in relation to which guarantees are given under this section does not at any time exceed £500 million.

(10) As soon as practicable after giving a guarantee under this section the Treasury or the Secretary of State must lay a statement of the guarantee before each House of Parliament.

(11) As soon as practicable after issuing a sum in fulfilment of a guarantee under this section the Treasury or the Secretary of State must lay a statement relating to the sum before each House of Parliament.

(12) If a payment is not made as required by arrangements under subsection (8), as soon as practicable after the default occurs the Treasury or the Secretary of State (depending on who made the arrangements) must lay a statement of the default before each House of Parliament.

Commencement Information

I50 S. 53 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

54 Grants.

(1) This section applies if any property, rights or liabilities are transferred under a transfer scheme to a transferee which at the time of the transfer is a company falling within subsection (3).

(2) With the Treasury's approval the Secretary of State may make grants towards the transferee's expenditure if when the grants are made it is a company falling within subsection (3).

(3) A company falls within this subsection if it is—

(a) a company which is wholly owned by the Crown,

(b) a company which is wholly owned by the CAA, or

(c) a company which is a wholly owned subsidiary of a company falling within paragraph (a) or (b).

(4) Grants may be of such amounts and be made at such times and in such manner as the Secretary of State may determine with the Treasury's approval.

(5) Grants may be made subject to such conditions as the Secretary of State may determine with the Treasury's approval.

(6) Grants may be retained by the transferee after it has ceased to be a company falling within subsection (3) (subject to any condition imposed under subsection (5)).

Commencement Information

I51 S. 54 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

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55 Trustee investments.

(1) This section applies if—

(a) any property, rights or liabilities are transferred under a transfer scheme to a transferee which at the time of the transfer is a company wholly owned by the Crown,

(b) at a time after the transfer the first condition (set out in subsection (2)) is satisfied, and

(c) the second condition (set out in subsection (3)) is satisfied.

(2) The first condition is that the transferee is a company whose shares or debentures are included in the Official List, within the meaning of Part IV of the [M16]Financial Services Act 1986, in pursuance of that Part.

(3) The second condition is that immediately before its shares or debentures are admitted to the Official List the transferee is wholly owned by the Crown.

(4) If this section applies, subsection (5) has effect for the purpose of applying paragraph 3(b) of Part IV of Schedule 1 to the [M17]Trustee Investments Act 1961 (dividends to be paid in each of the five years immediately preceding investment year) in relation to investment in shares or debentures of the transferee in the year of issue or any later year.

(5) The transferee must be taken to have paid a dividend as mentioned in paragraph 3(b)—

(a) in every year which precedes the year of issue and which is included in the relevant five years, and

(b) in the year of issue, if it is included in the relevant five years and the transferee does not in fact pay such a dividend in that year.

(6) For the purposes of this section—

(a) the year of issue is the calendar year in which shares in the transferee are first issued in pursuance of section 49;

(b) the relevant five years are the five years immediately preceding the year in which the investment in question is made or proposed to be made.

Commencement Information

I52 S. 55 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M16 1986 c. 60.

M17 1961 c. 62.

56 Shadow directors.

(1) This section applies if—

(a) any property, rights or liabilities are transferred under a transfer scheme to a transferee which at the time of the transfer is a company falling within subsection (2), and

(b) at a time after the transfer the condition set out in subsection (3) is satisfied.

(2) A company falls within this subsection if it is—

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(a) a company which is wholly owned by the Crown,
(b) a company which is wholly owned by the CAA, or
(c) a company which is a wholly owned subsidiary of a company falling within paragraph (a) or (b).

(3) The condition is that—
(a) the transferee continues to be, or becomes and continues to be, a company which is wholly owned by the Crown or a wholly owned subsidiary of such a company, or
(b) the Crown continues to hold any special share provided for under the transferee's articles of association.

[[F14](4) For the purposes of the provisions listed in subsection (5) none of the persons listed in subsection (8) is to be regarded as a shadow director of the transferee or of a company associated with the transferee at a time while the condition set out in subsection (3) is satisfied.

(5) The provisions are—
(a) section 288 of the Companies Act 1985 and Article 296 of the Companies (Northern Ireland) Order 1986 (register of directors);
(b) section 305 of that Act and Article 313 of that Order (directors' names on correspondence etc);
[[F15](c) Chapter 3 of Part 10 of the Companies Act 2006 (declaration of interest in existing transaction or arrangement),**]**
(d) sections 190 to 196 of **[**[F16]that Act**]** (transactions requiring members' approval: property transactions); and
(e) sections 197 to 214 of that Act (transactions requiring members' approval: loans etc).**]**

(8) The persons are—
(a) a Minister of the Crown;
(b) a Northern Ireland Minister;
(c) a nominee of a person falling within paragraph (a) or (b);
(d) a Northern Ireland Department.

(9) A special share is a share which can be held only by the Crown and which gives the shareholder the right to prevent certain events by withholding consent.

(10) A company is associated with the transferee if the conditions in subsections (11) and (12) are satisfied.

(11) The first condition is that the company is designated for the purposes of this subsection by an order of the Secretary of State.

(12) The second condition is that the company is—
(a) wholly owned by the Crown, or
(b) a subsidiary of the transferee.

Textual Amendments

F14 S. 56(4)(5) substituted for s. 56(4)-(7) (1.10.2007) by The Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), art. 1(3)(a), **Sch. 4 para. 95** (with art. 12)

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F15 S. 56(5)(c) substituted (1.10.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(3), **Sch. 3 para. 16(a)** (with arts. 6, 11, 12)

F16 Words in s. 56(5)(d) substituted (1.10.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(3), **Sch. 3 para. 16(b)** (with arts. 6, 11, 12)

Commencement Information

I53 S. 56 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Extinguishment of liabilities

57 Extinguishment of liabilities.

(1) With the Treasury's consent the Secretary of State may give a direction under this section to the CAA if he thinks that to do so would be appropriate in connection with a transfer scheme which has been or is proposed to be made.

(2) A direction may be given in relation to a company which is wholly owned by the CAA when the direction is given, and it may require the CAA—
- (a) to release the company from liability in respect of debts which the company owes to the CAA and which are specified in the direction;
- (b) to do so at a time when the company is wholly owned by the CAA;
- (c) to become a party to such arrangements as the direction may specify with a view to the release taking effect.

(3) A direction may by virtue of subsection (2)(c) include provision as to instruments, their form and the time they are to be made.

(4) A direction has effect to require the CAA to act in accordance with it even if to do so would not be in furtherance of the CAA's functions arising apart from this section.

(5) If a direction is given the Secretary of State may by order extinguish the CAA's liability in respect of debts which satisfy these conditions—
- (a) the CAA owes the debts to him,
- (b) he thinks they correspond to those specified in the direction, and
- (c) they are specified in the order.

(6) A direction or order may relate to liability for principal only.

Commencement Information

I54 S. 57 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

58 Securities to be issued.

(1) With the Treasury's consent the Secretary of State may give one or more directions under this section if he thinks that to do so would be appropriate in connection with a direction which has been given under section 57.

(2) A direction under this section may be given to a company falling within subsection (3), and it may require the company—

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(a) to issue to the appropriate person specified in the direction such securities of the company as the direction specifies, or

(b) to issue to different appropriate persons so specified such securities of the company as the direction specifies.

(3) These companies fall within this subsection—

(a) the company whose liability the direction under section 57 requires to be released;

(b) a company which wholly owns that company;

(c) a company which is a wholly owned subsidiary of a company falling within paragraph (a) or (b).

(4) These are appropriate persons—

(a) the Secretary of State;

(b) the company whose liability the direction under section 57 requires to be released;

(c) a company which wholly owns that company.

(5) But a company does not fall within subsection (3), and a company is not an appropriate person, unless—

(a) it is wholly owned by the Crown when the direction under this section is given, or

(b) it is a wholly owned subsidiary of a company which is wholly owned by the Crown when the direction under this section is given.

(6) Different directions may be given under this section to the same company; and different directions may be given to different companies.

(7) A company which is given a direction under this section must issue securities in accordance with it.

(8) Securities issued in pursuance of this section must be issued at such times and on such terms as the direction concerned specifies.

(9) Shares issued in pursuance of this section—

(a) must be of such nominal value as the direction concerned specifies, and

(b) must be issued as fully paid and treated for the purposes of the [M18]Companies Act 1985 or the [M19]Companies (Northern Ireland) Order 1986 as if they had been paid up by virtue of the payment to the issuing company of their nominal value in cash.

Commencement Information

I55 S. 58 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M18 1985 c. 6.

M19 S.I. 1986/1032 (N.I. 6).

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
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59 Securities: other provisions.

(1) If a security is issued to a company in pursuance of section 49 or 58, for the purposes of its statutory accounts the value of the security when issued must be taken to have been equal to—

(a) its nominal value (if it is a share);

(b) the principal sum payable under it (if it is a debenture).

(2) The nominal value or principal sum mentioned above must be taken to be accumulated realised profits for the purposes of the company's statutory accounts.

(3) If a direction under section 49 or 58 requires a company to issue a debenture the direction may specify—

(a) the principal sum payable under the debenture;

(b) the terms as to the payment of the principal sum;

(c) the terms as to the payment of interest on the principal sum.

(4) The principal sum payable under the debenture, and the terms as to the payment of it and of interest on it, must be taken to be those so specified.

(5) Statutory accounts are accounts prepared by a company for the purpose of any provision of **[**[F17]the Companies Act 2006**]** (including group accounts).

Textual Amendments

F17 Words in s. 59(5) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), **Sch. 1 para. 218(3)** (with arts. 6, 11, 12)

Commencement Information

I56 S. 59 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Miscellaneous

60 Enforcement of certain obligations.

(1) An obligation imposed by a provision included in a scheme by virtue of section 42(4)(a) is enforceable by civil proceedings by a person with whom the agreement is to be made or by any transferor or transferee.

(2) An obligation imposed by a provision included in a scheme by virtue of section 42(4)(b) is enforceable by civil proceedings by a person in whose favour the instrument is to be executed or by any transferor or transferee.

(3) The proceedings may be for an injunction or for interdict or for any other appropriate relief or remedy.

(4) A transaction effected in pursuance of an obligation mentioned in subsection (1) or (2)—

(a) is to have effect subject to the provisions of any enactment providing for transactions of the kind concerned to be registered in a statutory register, but

(b) subject to that, is to be binding on all other persons, even if it would otherwise require the consent or concurrence of any other person.

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Commencement Information

I57 S. 60 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

61 Special provisions about land.

(1) For the purposes of this section these rights affecting land are relevant land rights—

(a) a right of reverter (or in Scotland the right of the fiar on the termination of a liferent);

(b) a right of pre-emption;

(c) a right of forfeiture;

(d) a right of re-entry;

(e) a right of irritancy;

(f) an option;

(g) a right similar to anything falling within paragraphs (a) to (f).

(2) No relevant land right is to operate or become exercisable as a result of a transfer of land—

(a) under a transfer scheme,

(b) in consequence of anything done under Schedule 6, or

(c) pursuant to an obligation imposed by a provision included in a scheme by virtue of section 42(4)(a) or (b).

(3) In the case of a transfer mentioned in subsection (2) a relevant land right is to have effect as if—

(a) the person to whom the land is transferred were the same person in law as the person transferring the land, and

(b) no transfer of the land had taken place.

(4) Subsection (5) applies if—

(a) apart from subsections (2) and (3) a relevant land right would have operated in favour of a person or become exercisable by him, but

(b) the circumstances are such that in consequence of those subsections the right cannot subsequently operate in his favour or become exercisable by him (as the case may be).

(5) In such a case just compensation is payable to him by the person to whom the land is transferred or the person transferring it (or both) in respect of the right's extinguishment.

(6) A dispute about whether or how much compensation is payable or about the person to or by whom it is payable must be referred to and decided by—

(a) an arbitrator appointed by the President of the Royal Institution of Chartered Surveyors (if the proceedings are to be held in England and Wales),

(b) an arbiter appointed by the Chairman of the Royal Institution of Chartered Surveyors in Scotland (if the proceedings are to be held in Scotland), or

(c) an arbitrator appointed by the **[**[F18]Chairman of the Royal Institution of Chartered Surveyors in Northern Ireland**]** (if the proceedings are to be held in Northern Ireland).

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(7) If it appears to the person transferring the land that a person is or may be entitled to compensation he must—

(a) notify that person in writing that he is or may be entitled, and

(b) invite him to make representations to the person transferring the land, and to do so not later than the expiry of the period of 14 days starting with the date of issue of the notification.

(8) But if the person transferring the land is not aware of the name and address of the person concerned he must publish in such manner as he thinks appropriate a notice—

(a) containing information about the right affected, and

(b) inviting any person who thinks he is or may be entitled to compensation to make representations to the person transferring the land, and to do so within the period (not less than 28 days starting with the date of publication of the notice) specified in the notice.

(9) Subsections (2) and (3) apply in relation to the doing of any thing in relation to land (including the grant or creation of an estate or interest in it or right over it) as they apply in relation to a transfer of land; and a reference in this section to the person to whom the land is transferred or the person transferring it is to be construed accordingly.

Textual Amendments

F18 Words in s. 61(6)(c) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 294**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(x)

Commencement Information

I58 S. 61 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

62 Exercise of functions through nominees.

(1) The Treasury or the Secretary of State with the Treasury's approval may for the purposes of section 49, 50 or 58 appoint a person to act as the nominee, or one of the nominees, of the Treasury or the Secretary of State.

(2) In accordance with directions given from time to time by the Treasury or by the Secretary of State—

(a) securities may be issued under section 49 or 58 to a nominee of the Secretary of State appointed for the purposes of that section, and

(b) a nominee of the Treasury or the Secretary of State appointed for the purposes of section 50 may acquire securities under that section.

(3) A person holding any securities as a nominee of the Treasury or the Secretary of State by virtue of this section must hold and deal with them (or any of them) on such terms and in such manner as may be specified in directions given by the Treasury or the Secretary of State.

(4) A direction of the Secretary of State under subsection (2) or (3) requires the Treasury's consent.

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Commencement Information

I59 S. 62 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

63 Further provisions about transfer schemes.

Schedule 6 contains provisions about transfer schemes.

Commencement Information

I60 S. 63 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

64 Tax.

Schedule 7 contains provisions about tax.

Commencement Information

I61 S. 64 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Interpretation

65 Interpretation.

(1) This section defines these expressions (here listed alphabetically) for the purposes of this Chapter—

(a) company;
(b) company which wholly owns a company;
(c) company wholly owned by the CAA;
(d) company wholly owned by the Crown;
(e) a Northern Ireland Minister;
(f) securities;
(g) shares held by the Crown;
(h) subsidiary and wholly owned subsidiary;
(i) transferee;
(j) transferor.

(2) "Company" has the meaning given by section 735(1) of the [M20]Companies Act 1985 or Article 3 of the [M21]Companies (Northern Ireland) Order 1986.

(3) A company is wholly owned by the Crown at any time when all its shares are held by the Crown.

(4) Shares are held by the Crown if they are held—

(a) by a Minister of the Crown or his nominee,

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(b) by a Northern Ireland Minister or his nominee,
(c) by a Northern Ireland department, or
(d) by a company of which all the shares are held by the Crown.

(5) "Northern Ireland Minister" includes the First Minister and the deputy First Minister in Northern Ireland.

(6) A company is wholly owned by the CAA at any time when it has no members except—
(a) the CAA and its wholly owned subsidiaries, or
(b) persons acting on behalf of the CAA or its wholly owned subsidiaries.

(7) A company which wholly owns another company is a company of which the other is a wholly owned subsidiary.

(8) The expressions "subsidiary" and "wholly owned subsidiary" have the meanings given by section 736 of the [M22]Companies Act 1985 or Article 4 of the [M23]Companies (Northern Ireland) Order 1986.

(9) "Securities" has the same meaning as in section 142 of the [M24]Financial Services Act 1986.

(10) A transferee is any person to whom anything is or is to be transferred by a scheme.

(11) A transferor is any person from whom anything is or is to be transferred by a scheme.

(12) The definitions in this section apply unless the contrary intention appears.

Marginal Citations
M20 1985 c. 6.
M21 S.I. 1986/1032 (N.I. 6).
M22 1985 c. 6.
M23 S.I. 1986/1032 (N.I. 6).
M24 1986 c. 60.

CHAPTER III

AIR NAVIGATION

66 Air navigation: directions.

(1) The Secretary of State may give directions to the CAA imposing duties or conferring powers (or both) on it with regard to air navigation in a managed area.

(2) No action is to lie in respect of a failure by the CAA to perform a duty imposed on it by a direction under subsection (1); but that does not affect a right of action in respect of an act or omission which takes place in the course of performing the CAA's air navigation functions.

(3) The Secretary of State may nominate a member of the CAA for the purposes of this section, and a person so nominated must perform on the CAA's behalf such of its air navigation functions as the Secretary of State may specify.

(4) The following provisions are not to apply to the CAA's air navigation functions—

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(a) section 7(1) of the [M25]Civil Aviation Act 1982 (Secretary of State's power to prescribe functions not to be performed by a person on CAA's behalf);

(b) paragraph 15 of Schedule 1 to that Act (CAA's power to authorise a person to perform functions on its behalf).

(5) A person nominated under subsection (3) may authorise a member or employee of the CAA to perform on his behalf the functions which he is to perform by virtue of that subsection.

Commencement Information

I62 S. 66 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M25 1982 c. 16.

67 National security.

(1) The Secretary of State may nominate a member of the CAA for the purposes of this section, and in this section references to the national security nominee are to the person nominated under this section.

(2) Subsection (3) applies if—

(a) there is a difference of opinion between the national security nominee and the CAA,

(b) the difference of opinion relates to the CAA's air navigation functions, and

(c) the national security nominee thinks that if the CAA's opinion prevailed it could have an effect contrary to the interests of national security.

(3) In such a case—

(a) the CAA must refer the matter to the Secretary of State, and

(b) after consulting the CAA the Secretary of State may give it such directions regarding the matter as he thinks fit.

(4) The national security nominee may authorise a member or employee of the CAA to perform on his behalf the functions which he is to perform by virtue of this section; and while such an authorisation is effective references in subsection (2) to the national security nominee are to the person authorised under this subsection.

Commencement Information

I63 S. 67 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

68 Directions: further provision.

(1) Directions under section 66(1) may include provision as to the manner in which the CAA is to exercise its air navigation functions.

(2) The provision may include—

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(a) provision requiring consultation with specified persons or specified descriptions of persons in relation to specified matters;

(b) provision requiring the CAA to seek the approval of the Secretary of State in relation to specified matters;

(c) provision requiring the CAA in specified circumstances to refer specified matters to the Secretary of State.

(3) If a matter is referred to the Secretary of State by virtue of subsection (2)(b) or (c) he may give such directions to the CAA as he thinks fit.

Commencement Information

I64 S. 68 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

69 Directions: supplementary.

(1) In so far as a direction under section 66(1), 67(3) or 68(3) conflicts with the requirements of section 93 or of an order under section 94, the direction is to be disregarded.

(2) In so far as a direction under section 66(1), 67(3) or 68(3) conflicts with the requirements of an enactment or instrument other than section 93 or an order under section 94, the requirements are to be disregarded.

(3) If a direction is given under section 66(1) the CAA—

(a) must publish the direction in such manner as may be specified in regulations made by the Secretary of State;

(b) must set out the direction in the report made under section 21 of the [M26]Civil Aviation Act 1982 (annual report) for the accounting year in which the direction is given.

(4) If a direction is given under section 67(3) or section 68(3) the CAA—

(a) must set out the direction in the report made under section 21 of the [M27]Civil Aviation Act 1982 for the accounting year in which the direction is given, but

(b) must exclude a direction or part of a direction as to which the Secretary of State notifies the CAA that in his opinion it is against the national interest to set it out in the report.

Commencement Information

I65 S. 69 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M26 1982 c. 16.

M27 1982 c. 16.

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70 General duty.

(1) The CAA must exercise its air navigation functions so as to maintain a high standard of safety in the provision of air traffic services; and that duty is to have priority over the application of subsections (2) and (3).

(2) The CAA must exercise its air navigation functions in the manner it thinks best calculated—

(a) to secure the most efficient use of airspace consistent with the safe operation of aircraft and the expeditious flow of air traffic;

(b) to satisfy the requirements of operators and owners of all classes of aircraft;

(c) to take account of the interests of any person (other than an operator or owner of an aircraft) in relation to the use of any particular airspace or the use of airspace generally;

(d) to take account of any guidance on environmental objectives given to the CAA by the Secretary of State after the coming into force of this section;

(e) to facilitate the integrated operation of air traffic services provided by or on behalf of the armed forces of the Crown and other air traffic services;

(f) to take account of the interests of national security;

(g) to take account of any international obligations of the United Kingdom notified to the CAA by the Secretary of State (whatever the time or purpose of the notification).

(3) If in a particular case there is a conflict in the application of the provisions of subsection (2), in relation to that case the CAA must apply them in the manner it thinks is reasonable having regard to them as a whole.

(4) The CAA must exercise its air navigation functions so as to impose on providers of air traffic services the minimum restrictions which are consistent with the exercise of those functions.

(5) Section 4 of the [M28]Civil Aviation Act 1982 (CAA's general objectives) does not apply in relation to the performance by the CAA of its air navigation functions.

Commencement Information

I66 S. 70 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M28 1982 c. 16.

71 Information for purposes of Chapter III.

(1) The CAA may, for any purpose connected with its air navigation functions, serve on a person who provides air traffic services a notice which—

(a) requires the person to produce any documents which are specified or described in the notice and are in his custody or under his control, and to produce them at a time and place so specified and to a person so specified, or

(b) requires the person to supply information specified or described in the notice, and to supply it at a time and place and in a form and manner so specified and to a person so specified.

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(2) A requirement may be made under subsection (1)(b) only if the person is carrying on a business.

(3) No person may be required under this section—
- (a) to produce documents which he could not be compelled to produce in civil proceedings in the court;
- (b) to supply information which he could not be compelled to supply in such proceedings.

(4) If a person without reasonable excuse fails to do anything required of him by a notice under subsection (1) he is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) If a person intentionally alters, suppresses or destroys a document which he has been required to produce by a notice under subsection (1) he is guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

(6) If a person makes default in complying with a notice under subsection (1) the court may on the CAA's application make such order as the court thinks fit for requiring the default to be made good.

(7) An order under subsection (6) may provide that all the costs or expenses of and incidental to the application are to be borne—
- (a) by the person in default, or
- (b) if officers of a company or other association are responsible for its default, by those officers.

(8) A reference to producing a document includes a reference to producing a legible and intelligible copy of information recorded otherwise than in legible form.

(9) A reference to suppressing a document includes a reference to destroying the means of reproducing information recorded otherwise than in legible form.

(10) A reference to the court is to—
- (a) the High Court in relation to England and Wales or Northern Ireland;
- (b) the Court of Session in relation to Scotland.

Commencement Information

I67 S. 71 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

72 Interpretation.

(1) This section applies for the purposes of this Chapter.

(2) The CAA's air navigation functions are the functions which the CAA is to perform in pursuance of directions under section 66(1).

(3) These are managed areas—
- (a) the United Kingdom;

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(b) any area which is outside the United Kingdom but in respect of which the United Kingdom has undertaken under international arrangements to carry out activities with regard to air navigation.

Commencement Information

I68 S. 72 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

CHAPTER IV

CHARGES FOR AIR SERVICES

Charges

73 Charges for services.

(1) The CAA may specify—

(a) the amounts of, or methods of calculating, the charges which are to be paid by virtue of this section in respect of chargeable air services (or of such descriptions of those services as the CAA specifies),

(b) the operators and owners of aircraft (or descriptions of such operators and owners) who are to pay the charges,

(c) the persons (or descriptions of persons) to whom they are to be paid, and

(d) the currencies in which they are to be paid.

(2) On or after making specifications under subsection (1) the CAA may stipulate—

(a) that charges are to be dispensed with in cases of specified descriptions;

(b) that interest at a specified rate is to be paid on charges in respect of any period in which they are due but unpaid;

(c) that interest is to be paid with the charges or separately;

(d) that charges of a specified description are payable elsewhere than in the United Kingdom;

(e) that charges of a specified description are to be disposed of in a specified way when received.

(3) Charges of the specified amounts, or calculated in accordance with the specified methods, must be paid in accordance with specifications made under subsection (1).

(4) But if stipulations are made under subsection (2)(a) the charges concerned are not to be paid.

(5) If stipulations are made under subsection (2)(b) or (c) interest must be paid accordingly.

(6) If stipulations are made under subsection (2)(d) the charges concerned are payable accordingly.

(7) If stipulations are made under subsection (2)(e) the charges concerned must be disposed of accordingly.

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(8) Subsections (3) to (7) have effect subject to section 74.

(9) For the purposes of subsection (1)(c) persons include—
- (a) Eurocontrol and other international organisations, and
- (b) governments of countries or territories outside the United Kingdom.

Commencement Information

I69 S. 73 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

74 Publication, commencement, amendment and revocation.

(1) If the CAA makes specifications or stipulations under section 73—
- (a) it must publish a notice containing them;
- (b) they become effective as provided in the published notice.

(2) The CAA may amend or revoke any specifications or stipulations published under this section, and—
- (a) it must publish a notice containing any amendment or revocation;
- (b) the amendment or revocation becomes effective as provided in the published notice.

(3) An amendment or revocation does not affect any liability incurred before the amendment or revocation becomes effective.

(4) Publication under this section must be made—
- (a) in the London Gazette, the Edinburgh Gazette and the Belfast Gazette, or
- (b) in such other manner as the Secretary of State may provide by order.

Commencement Information

I70 S. 74 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

75 Specifications: supplementary.

(1) This section applies for the purposes of specifications under section 73(1).

(2) The CAA may specify—
- (a) different amounts or methods in respect of different descriptions of services;
- (b) different amounts or methods in respect of different classes or descriptions of aircraft;
- (c) different amounts or methods in respect of different circumstances in which aircraft are used.

(3) In specifying amounts or methods the CAA must have regard to—
- (a) tariffs which are approved under any international agreement to which the United Kingdom is a party;

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(b) tariffs which in the CAA's opinion are likely to be approved under any such agreement before or within one month after the date when the specifications are to take effect;

(c) tariffs which in the CAA's opinion are likely to be approved, before or within one month after the date when the specifications are to take effect, under any international agreement to which the United Kingdom is likely to be a party before or within one month after that date.

(4) Methods may be expressed by reference to such factors (including exchange rates between currencies) as the CAA thinks fit.

(5) A description of services may be expressed by reference to such factors (including the area in respect of which they are provided) as the CAA thinks fit.

(6) A description of operators and owners may be so general as to refer to all operators and owners.

(7) Owners and operators may be specified (or of a description specified) if the services concerned are available for the aircraft concerned, and it is immaterial whether or not the services are actually used or could be used with the equipment installed in the aircraft.

Commencement Information

I71 S. 75 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

76 Liability, recovery etc.

(1) Liability to pay a charge by virtue of section 73 arises whether or not—

(a) the aircraft concerned is registered in the United Kingdom;

(b) it is in the United Kingdom when the services concerned are provided;

(c) the services concerned are provided from a place in the United Kingdom.

(2) A charge payable by virtue of section 73 is recoverable in the United Kingdom wherever it is payable (without prejudice to its recovery elsewhere).

(3) A court in any part of the United Kingdom has jurisdiction to hear and determine—

(a) a claim for a charge or interest payable by virtue of section 73;

(b) a claim, by a person appearing to the court to have an interest in the matter, that a charge which by virtue of that section must be disposed of in a particular way has not been disposed of in that way.

(4) Subsection (3) applies even if the person against whom the claim is made is not resident within the court's jurisdiction.

Commencement Information

I72 S. 76 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

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77 Chargeable air services.

(1) For the purposes of this Chapter chargeable air services are services which—

(a) fall within subsection (2), and

(b) are not excepted air services (as defined in subsection (3)).

(2) These services fall within this subsection—

(a) air traffic services provided in respect of the United Kingdom;

(b) air traffic services which the United Kingdom has undertaken under international arrangements to provide in respect of an area outside the United Kingdom;

(c) air traffic services which are provided in respect of an area outside the United Kingdom and the charges for which the United Kingdom has undertaken to collect under international arrangements;

(d) services which are provided by the CAA in performing its air navigation functions (within the meaning of Chapter III) and for which Eurocontrol is to collect charges under the Eurocontrol agreement;

(e) air traffic services which do not fall within paragraph (d) and for which Eurocontrol is to collect charges under the Eurocontrol agreement.

(3) These are excepted air services—

(a) air traffic services provided by the owner or manager of an aerodrome or by his employee **[**[F19]other than services which fall within subsection (3A)**]**;

(b) air traffic services provided on behalf of the owner or manager of an aerodrome (other than a designated aerodrome) in circumstances where the person providing the services is not an employee of the owner or manager and they are provided under a contract or other arrangement made by the owner or manager and the person providing them.

[[F20](3A) Air traffic services fall within this subsection if—

(a) they are services for which Eurocontrol is to collect charges under the Eurocontrol agreement, and

(b) they are provided by the owner or manager of an aerodrome or by his employee under a contract or other arrangement made by the owner or manager with the CAA and the CAA in making that contract or other arrangement is acting in pursuance of its air navigation functions (within the meaning of Chapter III).**]**

(4) A designated aerodrome is an aerodrome designated by the Secretary of State by order for the purposes of subsection (3)(b).

(5) The Secretary of State may by order amend the meaning of chargeable air services for the purposes of this Chapter.

Textual Amendments

F19 Words in s. 77(3)(a) added (1.4.2001) by S.I. 2001/492, **art. 2(2)**

F20 S. 77(3A) inserted (1.4.2001) by S.I. 2001/492, **art. 2(3)**

Commencement Information

I73 S. 77 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

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78 Amounts for recovery etc.

(1) This section applies if—

(a) an amount of a charge is specified under section 73(1) in respect of a service falling within section 77(2)(d) or (e), and

(b) under the Eurocontrol agreement Eurocontrol is to collect a charge in respect of the specification and publication of the amount of the charge and its recovery.

(2) In specifying the amount of the charge the CAA may include an amount in respect of the specification and publication of the amount of the charge and its recovery.

(3) References to an amount include references to a method of calculating an amount.

Commencement Information

I74 S. 78 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

79 Further duties of the CAA.

(1) The CAA—

(a) must exercise its powers under section 73 if it thinks it should do so in order for international agreements to which the United Kingdom is a party to be fulfilled, and

(b) in exercising those powers must act in the manner it thinks best calculated to take account of those agreements.

(2) The CAA must exercise its powers under section 73 in relation to services falling within section 77(2)(b) if it thinks it should do so in order to enable the provider of the services to be paid for their provision.

Commencement Information

I75 S. 79 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

80 Secretary of State's duties.

(1) If information is given to the Secretary of State by the CAA concerning the charges the CAA would like to be paid in respect of chargeable air services which fall within section 77(2)(d), he must (so far as practicable) ensure that the information is given to Eurocontrol.

(2) If information is given to the Secretary of State by a licence holder concerning the charges it would like to be paid in respect of chargeable air services which it provides and which fall within section 77(2)(e), he must (so far as practicable) ensure that the information is given to Eurocontrol.

(3) But subsection (2) does not apply if the CAA tells the Secretary of State that giving the information to Eurocontrol could result in the licence holder being paid charges whose calculation was in contravention of the provisions of the licence.

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(4) If money is received by the government of the United Kingdom from Eurocontrol in respect of a chargeable air service falling within section 77(2)(d) or (e), the Secretary of State must (so far as practicable) ensure that the money is paid to the person who provided the service.

(5) If money falls to be paid by Eurocontrol in respect of a chargeable air service falling within section 77(2)(d) or (e), the Secretary of State must (so far as practicable) ensure that the money falls to be paid by Eurocontrol to the person who provided the service.

(6) The reference to money being received by the government of the United Kingdom is to money being received by a person on behalf of that government.

Commencement Information

I76 S. 80 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Miscellaneous

81 Records.

(1) The Secretary of State may make regulations in order to facilitate the assessment and collection of charges payable by virtue of section 73.

(2) The regulations may require operators or owners of aircraft or managers of aerodromes—
- (a) to make such records of the movements of aircraft, and of such other particulars relating to aircraft, as are specified;
- (b) to preserve the records for a specified period;
- (c) to produce relevant records for inspection by specified persons at specified times;
- (d) to provide specified particulars of relevant records to specified persons.

(3) Relevant records are records required to be preserved by the operators, owners or managers by the regulations or an Air Navigation Order.

(4) The persons who may be specified under subsection (2)(c) or (d) are—
- (a) in the case of charges payable to Eurocontrol, officers of the CAA or of Eurocontrol;
- (b) in the case of other charges, officers of the CAA or of the organisation, government or other person to whom the charges are payable.

(5) The requirements may be imposed on the operator or owner of an aircraft whether or not—
- (a) it is registered in the United Kingdom;
- (b) it is in the United Kingdom when the services concerned are provided;
- (c) the services concerned are provided from a place in the United Kingdom.

(6) A record includes (in addition to a record in writing)—

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(a) a disc, tape, sound-track or other device in which sounds or signals are embodied so as to be capable of being reproduced from it (with or without the aid of some other instrument);

(b) a film, tape or other device in which visual images are embodied so as to be capable of being reproduced from it (with or without the aid of some other instrument);

(c) a photograph.

(7) An Air Navigation Order is an Order in Council under section 60 of the [M29]Civil Aviation Act 1982.

(8) In subsection (4)—

(a) a reference to officers of the CAA includes a reference to persons authorised to act as such officers;

(b) a reference to officers of Eurocontrol includes a reference to persons authorised to act as such officers.

Commencement Information

I77 S. 81 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M29 1982 c. 16.

82 Offences.

(1) A person commits an offence if without reasonable excuse he fails to comply with a requirement of regulations made under section 81.

(2) A person commits an offence if he is in possession of information provided to him or obtained by him under regulations made under section 81 and he discloses the information otherwise than—

(a) with the consent of the person by whom it was provided or from whom it was obtained,

(b) for the purposes of the regulations,

(c) for the purposes of any proceedings arising out of this Chapter,

(d) for the purposes of any criminal proceedings (however arising),

(e) for the purposes of any proceedings brought by virtue of paragraph 3 of Schedule 4 to the [M30]Civil Aviation Act 1982 (claims against Eurocontrol),

(f) for the purposes of a public inquiry or investigation held or carried out under regulations made under section 75 of the [M31]Civil Aviation Act 1982, or

(g) for the purposes of a report of any proceedings, inquiry or investigation mentioned above.

(3) A person commits an offence if in providing particulars under a provision contained in regulations by virtue of section 81(2)(d)—

(a) he provides particulars which he knows are false in a material particular, or

(b) he recklessly provides particulars which are false in a material particular.

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(4) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) A person who commits an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding 3 months or to both.

(6) A person who commits an offence under subsection (3) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 3 months or to both;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both.

Commencement Information

I78 S. 82 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M30 1982 c. 16.

M31 1982 c. 16.

83 Detention and sale.

(1) The Secretary of State may make regulations containing—
- (a) provision which, in the case of default by an operator in paying a charge payable by virtue of section 73, authorises the detention (pending payment) of any aircraft falling within subsection (2);
- (b) provision which, in the case of default by an operator in complying with a requirement imposed by regulations made under section 81 to produce records for inspection or provide particulars of records, authorises the detention (pending compliance) of any aircraft of which he is the operator when detention begins;
- (c) provision which authorises the sale of any detained aircraft if the default is not remedied within a specified period.

(2) These aircraft fall within this subsection—
- (a) the aircraft in respect of which the charge was incurred (whether or not the person who is the operator of the aircraft when detention begins is the defaulter);
- (b) any aircraft of which the defaulter is the operator when detention begins.

(3) Regulations under subsection (1) may—
- (a) provide that detention (or continued detention) is authorised only in specified circumstances or at specified places;
- (b) provide that in specified circumstances detention is authorised only if a specified person consents;
- (c) provide that sale is authorised only in specified circumstances (which may relate to the court's consent, to be given only in specified circumstances);
- (d) specify the descriptions of person authorised to detain or sell aircraft;

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(e) provide for the power of detention or sale to extend to other matters (such as the aircraft's equipment);

(f) provide for the application of the proceeds of sale;

(g) provide for them to be applied in a specified order;

(h) make provision corresponding to any provision made by or under section 88 of the [M32]Civil Aviation Act 1982 (detention and sale of aircraft for unpaid airport charges);

(i) generally make such provision as the Secretary of State thinks is necessary or expedient to secure detention or sale.

Commencement Information

I79 S. 83 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M32 1982 c. 16.

Interpretation

84 Interpretation.

(1) This section applies for the purposes of this Chapter.

(2) Eurocontrol has the meaning given by section 24 of the [M33]Civil [M34] Aviation Act 1982.

(3) The Eurocontrol agreement is the multilateral agreement relating to route charges signed at Brussels on 12 February 1981 or any agreement replacing it.

(4) An aerodrome is an aerodrome as defined in section 105(1) of the Civil Aviation Act 1982; and a manager of an aerodrome is a person who is in charge of it or holds a licence granted in respect of it by virtue of section 60 of that Act (Chicago Convention, regulation of air navigation etc).

(5) "Licence holder" has the meaning given by section 40.

Commencement Information

I80 S. 84 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M33 1982 c. 16.

M34 1982 c. 16.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
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CHAPTER V

COMPETITION

85 Interpretation of Chapter V.

(1) For the purposes of this Chapter—

[[F21](a) the 2002 Act is the Enterprise Act 2002;**]**

(b) the 1998 Act is the [M35]Competition Act 1998;

[[F22](c) the OFT is the Office of Fair Trading.**]**

(2) For the purposes of this Chapter these expressions have the meanings given by section 40—

(a) aerodrome;

(b) licence;

(c) licence holder.

(3) If an expression is used in this Chapter and also in [F23]... the 1998 Act it has the same meaning in this Chapter as it has in the **[**[F24]1998 Act**]**.

Textual Amendments

F21 S. 85(1)(a) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 9 para. 23(2)**; S.I. 2003/1397, art. 2(1), Sch.

F22 S. 85(1)(c) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 44(6)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F23 Words in s. 85(3) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 9 para. 23(3)(a), **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch.

F24 Words in s. 85(3) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 9 para. 23(3)(b)**; S.I. 2003/1397, art. 2(1), Sch.

Commencement Information

I81 S. 85 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M35 1998 c. 41.

86 Functions exercisable by CAA and Director.

(1) The functions to which subsections (2) and (3) apply shall be concurrent functions of the CAA and **[**[F25]the OFT**]**.

[[F26](2) This subsection applies to the OFT's functions under Part 4 of the 2002 Act (other than sections 166 and 171) so far as they relate to the supply of air traffic services.**]**

[[F27](3) This subsection applies to the OFT's functions under the provisions of Part 1 of the 1998 Act (other than sections 31D(1) to (6), 38(1) to (6) and 51), so far as relating to—

(a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act,

(b) conduct of the kind mentioned in section 18(1) of that Act,

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(c) agreements, decisions or concerted practices of the kind mentioned in Article 81(1) of the treaty establishing the European Community, or

(d) conduct which amounts to abuse of the kind mentioned in Article 82 of the treaty establishing the European Community,

which relate to the supply of air traffic services.**]**

(4) References to **[**[F28]the OFT**]** in—

(a) **[**[F29]Part 4 of the 2002 Act (except for sections 166 and 171 but including provisions of that Act applied by that Part)**]**, and

(b) Part I of the 1998 Act (**[**[F30]except in sections 31D(1) to (6), 38(1) to (6)**]**, 51, 52(6) and (8) and 54),

must be read as including references to the CAA.

(5) But subsection (4) applies—

(a) only so far as it is consequential on subsections (1) to (3) above, and

(b) only if the context does not otherwise require.

(6) If a question arises as to whether subsections (1) to (3) above apply to a particular case the question must be referred to and determined by the Secretary of State.

(7) No objection may be taken to anything done by or in relation to the CAA—

(a) **[**[F31]Part 4 of the 2002 Act**]**, or

(b) under Part I of the 1998 Act (**[**[F32]except under section 31D(1) to (6), 38(1) to (6)**]** or 51),

on the ground that it should have been done by or in relation to **[**[F33]the OFT**]**.

Textual Amendments

F25 Words in s. 86(1) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 44(7)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F26 S. 86(2) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 9 para. 24(2)**; S.I. 2003/1397, art. 2(1), Sch.

F27 S. 86(3) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 2 para. 10(2)(a)**

F28 Words in s. 86(4) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 44(7)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F29 Words in s. 86(4)(a) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 9 para. 24(3)**; S.I. 2003/1397, art. 2(1), Sch.

F30 Words in s. 86(4)(b) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 2 para. 10(2)(b)**

F31 Words in s. 86(7)(a) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 9 para. 24(4)**; S.I. 2003/1397, art. 2(1), Sch.

F32 Words in s. 86(7)(b) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 2 para. 10(2)(c)**

F33 Words in s. 86(7) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 44(7)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Commencement Information

I82 S. 86 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
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87 CAA's [F34 2002] Act functions.

(1) For the purposes of this section the CAA's [F34 2002] Act functions are the functions mentioned in subsection (2) of section 86 which, by virtue of that section, are functions of the CAA.

(2) The CAA must exercise its [F34 2002] Act functions so as to maintain a high standard of safety in the provision of air traffic services; and that duty is to have priority over the application of subsections (3) to (6).

(3) The CAA must exercise its [F34 2002] Act functions in the manner it thinks best calculated—

(a) to further the interests of operators and owners of aircraft, owners and managers of aerodromes, persons travelling in aircraft and persons with rights in property carried in them;

(b) to promote efficiency and economy on the part of suppliers of air traffic services;

(c) to secure that suppliers of air traffic services who are licence holders will not find it unduly difficult to finance activities authorised by their licences;

(d) to take account of any international obligations of the United Kingdom notified to the CAA by the Secretary of State (whatever the time or purpose of the notification);

(e) to take account of any guidance on environmental objectives given to the CAA by the Secretary of State after the coming into force of this section.

(4) The only interests to be considered under subsection (3)(a) are interests regarding the range, availability, continuity, cost and quality of air traffic services.

(5) The reference in subsection (3)(a) to furthering interests includes a reference to furthering them (where the CAA thinks it appropriate) by promoting competition in the provision of air traffic services.

(6) If in a particular case there is a conflict in the application of the provisions of subsections (3) to (5), in relation to that case the CAA must apply them in the manner it thinks is reasonable having regard to them as a whole.

(7) The CAA must exercise its [F34 2002] Act functions so as to impose on suppliers of air traffic services the minimum restrictions which are consistent with the exercise of those functions.

(8) Section 4 of the M36 Civil Aviation Act 1982 (CAA's general objectives) does not apply in relation to the performance by the CAA of its [F34 2002] Act functions.

Textual Amendments

F34 Word in s. 87 substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 9 para. 25**; S.I. 2003/1397, art. 2(1), Sch.

Commencement Information

I83 S. 87 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M36 1982 c. 16.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
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88 CAA's 1998 Act functions.

(1) For the purposes of this section the CAA's 1998 Act functions are the functions mentioned in subsection (3) of section 86 which, by virtue of that section, are functions of the CAA.

(2) In exercising its 1998 Act functions the CAA may (in particular) have regard to any matter which satisfies the following condition.

(3) The condition is that the matter is one to which, by virtue of section 87, the CAA must have regard in exercising its **[**[F35]2002**]** Act functions (within the meaning of that section).

Textual Amendments

F35 Word in s. 88(3) substituted (20.6.2003) by The Enterprise Act 2002 (Consequential and Supplemental Provisions) Order 2003 (S.I. 2003/1398), art. 1, **Sch. para. 37**

Commencement Information

I84 S. 88 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

89 Carrying out functions.

(1) For the purposes of this section the **[**[F36]2002**]** Act functions are the functions mentioned in subsection (2) of section 86 which, by virtue of that section, are concurrent functions of the CAA and **[**[F37]the OFT**]**.

(2) Before **[**[F37]the OFT**]** or the CAA first carries out the **[**[F36]2002**]** Act functions in relation to a matter **[**[F38]it**]** must consult the other.

(3) If **[**[F37]the OFT**]** or the CAA has carried out the **[**[F36]2002**]** Act functions in relation to a matter the other must not carry out the **[**[F36]2002**]** Act functions in relation to the matter.

(4) If in carrying out the **[**[F36]2002**]** Act functions the CAA makes a reference to the Competition Commission, to help the Commission in its investigation on the reference the CAA must give to it—

(a) any information the CAA has which relates to matters within the scope of the investigation and which the Commission requests;

(b) any information the CAA has which relates to matters within the scope of the investigation and which the CAA thinks it would be appropriate for it to give without a request;

(c) any other help which the CAA is able to give in relation to matters within the scope of the investigation and which the Commission requests.

(5) In carrying out the investigation concerned the Commission must take account of any information given under subsection (4).

Textual Amendments

F36 Word in s. 89 substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 9 para. 26**; S.I. 2003/1397, art. 2(1), Sch.

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F37 Words in s. 89 substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 44(8)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F38 Word in s. 89(2) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 44(8)(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Commencement Information

I85 S. 89 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

CHAPTER VI

MISCELLANEOUS AND GENERAL

Miscellaneous

90 Publication of information and advice.

(1) The CAA may publish information and advice which it thinks it is expedient to give to—

(a) operators and owners of aircraft;

(b) owners and managers of aerodromes;

(c) persons travelling in aircraft and persons with rights in property carried in them.

(2) The CAA may instead arrange for the publication of such information and advice.

(3) Publication under this section is to be in the form and manner the CAA thinks appropriate.

(4) So far as practicable the CAA must secure the exclusion of any matter relating to the affairs of a person if the CAA thinks its publication would or might seriously and prejudicially affect the person's interests.

(5) But subsection (4) does not apply if the CAA thinks publication of the matter would be in the public interest.

(6) **[**[F39]The Office of Fair Trading must consult the CAA before publishing under section 6 of the Enterprise Act 2002**]** any information or advice which may be published under this section.

(7) An aerodrome is an aerodrome as defined by section 105(1) of the [M37]Civil Aviation Act 1982; and a manager of an aerodrome is a person who is in charge of it or holds a licence granted in respect of it by virtue of section 60 of that Act (Chicago Convention, regulation of air navigation etc).

[F40](8) . . . . . .

Textual Amendments

F39 Words in s. 90(6) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 44(9)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

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F40 S. 90(8) repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 44(9)(b), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Commencement Information

I86 S. 90 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M37 1982 c. 16.

91 Review and information.

(1) So far as it appears to the CAA practicable to do so with a view to facilitating the exercise of its functions under this Part, it must—

(a) keep under review the provision (in the United Kingdom and elsewhere) of air traffic services;

(b) collect information about the provision (in the United Kingdom and elsewhere) of those services.

(2) The Secretary of State may give directions indicating considerations to which the CAA is to have particular regard in deciding the order of priority in which matters are to be reviewed in performing its duty under subsection (1)(a).

(3) If the CAA thinks it expedient or it is asked by the Secretary of State or **[**[F41]the Office of Fair Trading**]** to do so, it must provide information, advice and help to the Secretary of State or **[**[F41]the Office of Fair Trading**]** regarding any matter in respect of which the CAA has a function under this Part.

(4) The CAA may recover from the Secretary of State or **[**[F41]the Office of Fair Trading**]** a sum equal to any expense reasonably incurred by it in providing anything to the person concerned under subsection (3).

[F42](5) . . . . . .

Textual Amendments

F41 Words in s. 91(3)(4) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 44(10)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

F42 S. 91(5) repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 44(10)(b), **Sch. 26**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

Commencement Information

I87 S. 91 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

92 Secretary of State's directions to CAA.

The Secretary of State may give directions indicating considerations to which the CAA is to have particular regard in deciding whether and how to exercise its functions under this Part.

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Commencement Information

I88 S. 92 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

93 Control in time of hostilities etc.

(1) The Secretary of State may—

(a) give directions to any listed person in any time of actual or imminent hostilities or of severe international tension or of great national emergency;

(b) give directions to any listed person requiring him to participate in the planning of steps which might be taken in any time of actual or imminent hostilities or of severe international tension or of great national emergency.

(2) The listed persons are—

(a) the CAA;

(b) a person who provides air traffic services;

(c) a person who operates a United Kingdom air transport undertaking;

(d) a person who operates an airport;

(e) a person who owns or operates a relevant asset.

(3) The power under subsection (1)(a) includes—

(a) in the case of the CAA, power to direct it to carry out its functions in a specified manner or for specified purposes;

(b) in the case of a person who provides air traffic services, power to direct him to do so in a specified manner or for specified purposes;

(c) in the case of a person who owns a relevant asset, power to direct him to permit the use of the asset or to exercise his rights over it in a specified manner or for specified purposes;

(d) in the case of a person who operates a relevant asset, power to direct him to exercise his powers of management over the asset in a specified manner or for a specified purpose.

(4) The power under subsection (1)(a) includes power to give directions designed—

(a) to regulate or prohibit (absolutely or subject to conditions) the navigation of all or any descriptions of aircraft over the United Kingdom or over part of it or over any area of sea;

(b) to regulate or prohibit (absolutely or subject to conditions) the use, building, maintenance or establishment of aerodromes or flying schools or of any description of aerodrome or flying school;

(c) to secure that relevant assets are taken into the Secretary of State's possession for use by or for the purposes of the armed forces of the Crown.

(5) In so far as a direction under this section conflicts with the requirements of an order under section 94, the direction is to be disregarded.

(6) In so far as a direction under this section conflicts—

(a) with the requirements of an enactment or instrument other than an order under section 94, or

(b) with any duty which arises otherwise than under an enactment or instrument,

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the requirements are or the duty is to be disregarded.

(7) A person directed under this section commits an offence if without reasonable excuse he contravenes or fails to comply with the direction.

(8) A person who commits an offence under subsection (7) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both.

(9) A person (other than the CAA) who suffers direct injury or loss arising from compliance with a direction under subsection (1)(a) is entitled to receive compensation from the Secretary of State.

(10) The compensation must be of an amount agreed by the person and the Secretary of State or (in default of agreement) of an amount decided by—
- (a) an arbitrator appointed by the President of the Royal Institution of Chartered Surveyors (if the proceedings are to be held in England and Wales),
- (b) an arbiter appointed by the Chairman of the Royal Institution of Chartered Surveyors in Scotland (if the proceedings are to be held in Scotland), or
- (c) an arbitrator appointed by the **[**[F43]Chairman of the Royal Institution of Chartered Surveyors in Northern Ireland**]** (if the proceedings are to be held in Northern Ireland).

Textual Amendments

F43 Words in s. 93(10)(c) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 295**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(x)

Commencement Information

I89 S. 93 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

94 Orders for possession of aerodromes etc.

(1) This section applies in any time of actual or imminent hostilities or of severe international tension or of great national emergency.

(2) The Secretary of State may by order provide for—
- (a) any aerodrome, and
- (b) any aircraft, machinery, plant, material or thing found in or on any aerodrome,

to be taken into his possession and used by or for the purposes of the armed forces of the Crown.

(3) An order under this section may, for the purpose of securing compliance with the provisions of the order—
- (a) provide for the detention of aircraft;
- (b) make such other provision as appears to the Secretary of State to be necessary or expedient for securing such detention.

(4) A person must comply with an order under this section notwithstanding any other duty, however arising.

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(5) An order under this section may, for the purpose of securing compliance with the provisions of the order, provide for—
  (a) persons to be guilty of offences in such circumstances as may be specified in the order;
  (b) persons to be liable on conviction of those offences to such penalties as may be so specified.

(6) The power under subsection (5) does not include power—
  (a) to provide for offences to be triable only on indictment;
  (b) to authorise the imposition, on summary conviction of an offence, of any term of imprisonment or of a fine exceeding the statutory maximum;
  (c) to authorise the imposition, on conviction on indictment of an offence, of a term of imprisonment exceeding two years.

(7) Any person who suffers direct injury or loss arising from compliance with an order under this section is entitled to receive compensation from the Secretary of State.

(8) The compensation must be of an amount agreed by the person and the Secretary of State or (in default of agreement) of an amount decided by—
  (a) an arbitrator appointed by the President of the Royal Institution of Chartered Surveyors (if the proceedings are to be held in England and Wales),
  (b) an arbiter appointed by the Chairman of the Royal Institution of Chartered Surveyors in Scotland (if the proceedings are to be held in Scotland), or
  (c) an arbitrator appointed by the **[**[F44]Chairman of the Royal Institution of Chartered Surveyors in Northern Ireland**]** (if the proceedings are to be held in Northern Ireland).

Textual Amendments

F44 Words in s. 94(8)(c) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 296**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(x)

Commencement Information

I90 S. 94 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

95 Sections 93 and 94: interpretation.

(1) This section defines these expressions (here listed alphabetically) for the purposes of sections 93 and 94 and this section—
  (a) aerodrome;
  (b) airport, and its operator;
  (c) great national emergency;
  (d) relevant asset, and a person who owns or operates it;
  (e) United Kingdom air transport undertaking.

(2) A great national emergency is a natural disaster or other emergency which the Secretary of State thinks is or may be likely to give rise to such disruption of the means of transport that the population, or a substantial part of the population, of the United Kingdom is or may be likely to be deprived of essential goods or services.

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(3) An aerodrome is an aerodrome as defined in section 105(1) of the [M38]Civil Aviation Act 1982.

(4) An airport is the aggregate of the land, buildings and works comprised in an aerodrome; and a person operates an airport if he manages it.

(5) A United Kingdom air transport undertaking is an undertaking which appears to the Secretary of State to have its principal place of business in the United Kingdom and which includes the provision of services for the carriage by air of passengers or cargo for hire or reward.

(6) A relevant asset is any—
- (a) aerodrome,
- (b) property used in connection with the operation of an aerodrome,
- (c) aircraft, or
- (d) property used in connection with the provision of air traffic services.

(7) An owner of a relevant asset is a person—
- (a) who owns it or has a right over or interest in it, and
- (b) whose consent is needed for its use by any other person.

(8) An operator of a relevant asset is a person who manages it.

Commencement Information

I91 S. 95 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M38 1982 c. 16.

96 Civil Aviation Authority Pension Scheme.

(1) The Secretary of State may by order make provision for the allocation of assets, rights, liabilities or obligations between different sections of the Civil Aviation Authority Pension Scheme.

(2) An order under this section may include provision for or in connection with—
- (a) securing that the Scheme continues to be approved for the purposes of the relevant enactments;
- (b) the amendment of the Scheme;
- (c) the manner in which questions arising under the order are to be determined.

(3) The reference in subsection (2) to the amendment of the Scheme includes a reference to the amendment of—
- (a) the trust deed of the Scheme;
- (b) the rules of the Scheme;
- (c) any other instrument relating to the constitution, management or operation of the Scheme.

(4) An order under this section may be made so as to have effect from a date falling before the making of the order.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
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(5) In making an order under this section the Secretary of State must secure that each person falling within subsection (6) is overall in materially at least as good a position, as respects pension arrangements, as a result of the order.

(6) A person falls within this subsection if—
- (a) he is or has at any time been a contributing member of the Scheme, or
- (b) he is or may become entitled to benefits in respect of a person falling within paragraph (a).

(7) A contributing member of the Scheme is a member who makes, and whose employer makes in respect of him, contributions under the Scheme.

(8) The relevant enactments are—
- (a) Chapter I of Part XIV of the [M39]Income and Corporation Taxes Act 1988 (retirement benefit schemes);
- (b) Part III of the [M40]Pension Schemes Act 1993, so far as relating to occupational pension schemes.

Commencement Information

I92 S. 96 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M39 1988 c. 1.
M40 1993 c. 48.

97 Amendments.

Schedule 8 contains amendments.

Commencement Information

I93 S. 97 wholly in force; s. 97 not in force at Royal Assent see s. 275(1)(2); s. 97 in force for specified purposes by S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II); s. 97 in force in so far as not already in force 1.4.2001 by S.I. 2001/869, **art. 2**

General interpretation

98 Air traffic services.

(1) For the purposes of this Part these are air traffic services—
- (a) providing instructions, information or advice with a view to preventing aircraft colliding with other aircraft or with other obstructions (whether in the air or on the ground);
- (b) providing instructions, information or advice with a view to securing safe and efficient flying;
- (c) managing the flow of air traffic with a view to ensuring the most efficient use of airspace;

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(d) providing facilities for communicating with aircraft and for the navigation and surveillance of aircraft;

(e) notifying organisations of aircraft needing search and rescue facilities, and assisting organisations to provide such facilities.

(2) The Secretary of State may by order amend the meaning of air traffic services for the purposes of this Part.

Commencement Information

I94 S. 98 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

99 The CAA.

For the purposes of this Part the CAA is the Civil Aviation Authority.

Commencement Information

I95 S. 99 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Other general provisions

100 Service of documents.

(1) A document required or authorised by virtue of this Part to be served on a person may be served—

(a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address;

(b) if the person is a body corporate, by serving it in accordance with paragraph (a) on the secretary of the body;

(c) if the person is a partnership, by serving it in accordance with paragraph (a) on a partner or a person having the control or management of the partnership business.

(2) For the purposes of this section and section 7 of the [M41]Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of a person on whom a document is to be served is his last known address, except that—

(a) in the case of service on a body corporate or its secretary, it is the address of the registered or principal office of the body;

(b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it is the address of the principal office of the partnership.

(3) For the purposes of subsection (2) the principal office of a company constituted under the law of a country or territory outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

(4) Subsection (5) applies if a person to be served under this Part with a document by another has specified to that other an address within the United Kingdom other than his proper address (as determined under subsection (2)) as the one at which he or someone on his behalf will accept documents of the same description as that document.

(5) In relation to that document that address must be treated as his proper address for the purposes of this section and section 7 of the [M42]Interpretation Act 1978 in its application to this section, instead of that determined under subsection (2).

(6) This section does not apply to a document if rules of court make provision about its service.

(7) In this section references to serving include references to similar expressions (such as giving or sending).

Commencement Information

I96 S. 100 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M41 1978 c. 30.

M42 1978 c. 30.

101 Making of false statements etc.

(1) A person commits an offence if in giving information or making an application in relevant circumstances—

(a) he makes a statement which he knows to be false in a material particular, or

(b) he recklessly makes a statement which is false in a material particular.

(2) A person gives information or makes an application in relevant circumstances if he gives or makes it in pursuance of—

(a) a provision contained in or made under this Part, or

(b) a direction given, notice served or other thing done in pursuance of such a provision.

(3) A person who commits an offence under this section is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(4) No proceedings may be started in England and Wales for an offence under this section except by or with the consent of the Secretary of State or the Director of Public Prosecutions.

(5) No proceedings may be started in Northern Ireland for an offence under this section except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

Commencement Information

I97 S. 101 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

102 Disclosure of information.

Schedule 9 contains provision about the disclosure of information.

Commencement Information

I98 S. 102 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

103 Orders and regulations.

(1) A power to make an Order in Council or an order or regulations under this Part may be exercised differently in relation to different cases or descriptions of case.

(2) An Order in Council or an order or regulations under this Part may include such supplementary, incidental, consequential or transitional provisions as the person exercising the power thinks are necessary or expedient.

(3) A power to make an order or regulations under this Part is exercisable by statutory instrument.

(4) In subsections (1) and (3) references to a power to make an order are to a power of the Secretary of State; and in subsection (2) the reference to an order is to an order made by the Secretary of State.

(5) A statutory instrument is subject to annulment in pursuance of a resolution of either House of Parliament if the instrument contains an order or regulations made by the Secretary of State under any provision of this Part other than section 51 or 94.

(6) No order is to be made under section 51 unless a draft has been laid before and approved by resolution of each House of Parliament.

(7) The power to make an order under section 4 is exercisable only after consultation with the CAA, unless the exemption needs to be granted before the coming into force of section 3.

(8) The power to make an order under section 98 is exercisable only after consultation with the CAA.

(9) The power to make regulations under section 6 is exercisable only after consultation with the CAA.

(10) The power to make an order under section 57 is exercisable only with the Treasury's consent.

(11) The power to make an order under section 77(5) is exercisable only after consultation with the CAA and holders of licences under Chapter I.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

(12) The power to make an order under section 96 is exercisable only after consultation with the trustees of the Civil Aviation Pension Scheme.

(13) If apart from this subsection a draft of an order under section 51 would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.

Commencement Information

I99 S. 103 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

104 Directions.

(1) A person to whom a direction is given under this Part must give effect to the direction.

(2) A direction under a provision of this Part may be varied or revoked by a direction under the same provision.

(3) A direction under this Part must be in writing.

Commencement Information

I100 S. 104 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

105 Crown application.

(1) The provisions mentioned in subsection (2) bind the Crown.

(2) The provisions are—

(a) section 3;

(b) sections 26 to 30 and 33;

(c) sections 41, 42, 44, 45 and 60;

(d) Chapter V, to the extent that it applies or modifies the operation of provisions of the [M43]Competition Act 1998;

(e) sections 93 to 95;

(f) section 104, so far as relating to other provisions of this Part which bind the Crown;

(g) Schedule 1, to the extent that it applies, amends or modifies the operation of provisions of the [M44]Insolvency Act 1986 which bind the Crown so far as affecting or relating to the matters specified in paragraphs (a) to (e) of section 434 of that Act;

(h) Schedule 2;

(i) Schedule 3, to the extent that it applies, amends or modifies the operation of provisions of the [M45]Insolvency (Northern Ireland) Order 1989 which bind the Crown so far as affecting or relating to the matters specified in paragraphs (a) to (e) of Article 378 of that Order;

(j) Schedule 6.

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(3) Her Majesty may by Order in Council apply, with or without modification, any of the provisions mentioned in subsection (4) to any aircraft belonging to or exclusively employed in the service of Her Majesty.

(4) The provisions are—

(a) Chapter IV (except section 82);

(b) any order or regulations under any provision mentioned in paragraph (a).

(5) This section (except so far as it relates to Chapter V) has effect subject to section 106; and, so far as it relates to Chapter V, it has effect subject to section 73 of the [M46]Competition Act 1998.

Commencement Information

I101 S. 105 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M43 1998 c. 41.

M44 1986 c. 45.

M45 S.I. 1989/2405 (N.I. 19).

M46 1998 c. 41.

106 The Crown: other provisions.

(1) No contravention by the Crown of a provision contained in or made under this Part shall make the Crown criminally liable; but the High Court or in Scotland the Court of Session may, on the application of a person appearing to the Court to have an interest, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(2) Notwithstanding subsection (1), the provisions contained in or made under section 3(1), 93(7) or 94(5) apply to persons in the public service of the Crown as they apply to other persons.

(3) However, section 3(1) does not apply if the services there mentioned are provided by or on behalf of the armed forces of the Crown; and the person to whom and aircraft for which the services are provided are immaterial.

(4) Nothing in section 105 or this section affects Her Majesty in her private capacity; and this subsection must be construed as if section 38(3) of the [M47]Crown Proceedings Act 1947 (meaning of Her Majesty in her private capacity) were contained in this Act.

Commencement Information

I102 S. 106 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M47 1947 c. 44.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

107 Extension outside United Kingdom.

(1) Her Majesty may by Order in Council direct that any of the provisions listed in subsection (2) is to extend to any relevant overseas territory specified in the Order, with the modifications (if any) so specified.

(2) The provisions are—
- (a) Chapter I;
- (b) Chapter II;
- (c) Chapter III;
- (d) Chapter IV;
- (e) sections 90 to 104 and Schedules 8 and 9;
- (f) section 273 so far as it relates to offences under this Part.

(3) These are relevant overseas territories—
- (a) any of the Channel Islands;
- (b) the Isle of Man;
- (c) any colony.

(4) In this section "modifications" includes additions, omissions and other alterations.

Commencement Information

I103 S. 107 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

PART II

LOCAL TRANSPORT

Modifications etc. (not altering text)

C2 Pt. II: power to amend conferred (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), **s. 9(1)**(2), 15(1); S.I. 2007/2799, arts. 2, 3 (with art. 4)

C3 Pt. II: power to amend conferred (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), **ss. 8(1)**, 15(1); S.I. 2007/2799, arts. 2, 3 (with art. 4)

C4 Pt. II: power to amend conferred (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), **s. 10(1)**(2), 15(1); S.I. 2007/2799, arts. 2, 3 (with art. 4)

Local transport plans and bus strategies

108 Local transport plans.

(1) Each local transport authority must—

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

(a) develop policies for the promotion and encouragement of safe, integrated, efficient and economic transport facilities and services to, from and within their area, and

(b) carry out their functions so as to implement those policies.

(2) The transport facilities and services mentioned in subsection (1) are—

(a) those required to meet the needs of persons living or working in the authority's area, or visiting or travelling through that area, and

(b) those required for the transportation of freight;

and include facilities and services for pedestrians.

[[F45](2A) Each local transport authority whose area is in Wales must also—

(a) develop policies for the implementation in their area of the Wales Transport Strategy, and

(b) carry out their functions so as to implement those policies.**]**

(3) Each local transport authority must prepare a document to be known as the local transport plan **[**[F46]containing—

(a) their policies under subsection (1), and

(b) in the case of an authority whose area is in Wales, their policies under subsection (2A)**]**

(4) In this Part "local transport authority" means—

(a) a county council in England,

(b) a council of a non-metropolitan district in England comprised in an area for which there is no county council,

(c) a Passenger Transport Authority for a passenger transport area in England, or

(d) a county council or county borough council in Wales.

Textual Amendments

F45 S. 108(2A) inserted (26.5.2006) by Transport (Wales) Act 2006 (c. 5), s. 12, **Sch. para. 2(2)**; S.I. 2006/1403, art. 2(2)(c)

F46 S. 108(3)(a)(b) substituted (26.5.2006) by Transport (Wales) Act 2006 (c. 5), s. 12, **Sch. para. 2(3)**; S.I. 2006/1403, art. 2(2)(c)

Modifications etc. (not altering text)

C5 S. 108 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), art. 1, **Sch. 2 para. 1** (with art. 7(4))

C6 S. 108 modified (W.) (23.11.2006) by The Regional Transport Planning (Wales) Order 2006 (S.I. 2006/2993), arts. 1(2), **3** (with art. 4)

C7 S. 108(3) excluded (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), arts. 1, **7(1)** (with art. 7(4))

Commencement Information

I104 S. 108 wholly in force at 1.8.2001; s. 108 not in force at Royal Assent see s. 275(1)(2); s. 108 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 108 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 1**

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

109 [[F47]Further provision about plans: England]

(1) A local transport authority **[**[F48]whose area is in England**]** must keep their local transport plan under review and alter it if they consider it appropriate to do so.

(2) The authority must replace the plan not later than five years after the date on which it was made.

(3) As soon as practicable after any occasion when they prepare a new plan or alter their plan, the authority must—

(a) publish the plan or the plan as altered in such manner as they think fit, and

(b) send a copy of it to the Secretary of State [F49]... and to such other persons (if any) as may be specified in guidance under section 112(1).

(4) The authority must also—

(a) cause a copy of their local transport plan to be made available for inspection (at all reasonable hours) at such places as they think fit,

(b) give notice, by such means as they think expedient for bringing it to the attention of the public, as to the places at which a copy of it may be inspected, and

(c) supply a copy of it (or any part of it) to any person on request, either free of charge or at a charge representing no more than the cost of providing the copy.

(5) Where a local transport authority **[**[F50]whose area is in England**]** have, before the coming into force of section 108, prepared and published a document which—

(a) contains policies developed by them for the purposes described in subsection (1)(a) of that section, and

(b) was prepared and published in accordance with guidance issued by the Secretary of State [F51]... ,

that document shall be taken to be the authority's local transport plan.

(6) But, in the case of a document which is a local transport plan by virtue of subsection (5), subsection (2) requires its replacement **[**[F52]not later than 31st March 2006 (rather than not later than five years after the date on which it was made).**]**

Textual Amendments

F47 S. 109 heading substituted (26.5.2006) by Transport (Wales) Act 2006 (c. 5), s. 12, **Sch. para. 3(2)**; S.I. 2006/1403, art. 2(2)(c)

F48 Words in s. 109(1) inserted (26.5.2006) by Transport (Wales) Act 2006 (c. 5), s. 12, **Sch. para. 3(3)**; S.I. 2006/1403, art. 2(2)(c)

F49 Words in s. 109(3)(b) omitted (26.5.2006) by virtue of Transport (Wales) Act 2006 (c. 5), s. 12, **Sch. para. 3(4)**; S.I. 2006/1403, art. 2(2)(c)

F50 Words in s. 109(5) inserted (26.5.2006) by Transport (Wales) Act 2006 (c. 5), s. 12, **Sch. para. 3(5)(a)**; S.I. 2006/1403, art. 2(2)(c)

F51 Words in s. 109(5) omitted (26.5.2006) by virtue of Transport (Wales) Act 2006 (c. 5), s. 12, **Sch. para. 3(5)(b)**; S.I. 2006/1403, art. 2(2)(c)

F52 Words in s. 109(6) substituted (26.5.2006) by Transport (Wales) Act 2006 (c. 5), s. 12, **Sch. para. 3(6)**; S.I. 2006/1403, art. 2(2)(c)

Modifications etc. (not altering text)

C8 S. 109 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), art. 1, **Sch. 2 para. 2** (with art. 7(4))

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

Commencement Information

I105 S. 109 wholly in force at 1.8.2001; s. 109 not in force at Royal Assent see s. 275(1)(2); s. 109 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 109 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 1**

[F53 109A Approval of plans: Wales

(1) A local transport authority whose area is in Wales must submit their local transport plan to the National Assembly for Wales for its approval.

(2) If the Assembly refuses to approve a plan submitted to it by a local transport authority under this section—

(a) the Assembly must give the local transport authority a statement of the reasons for its refusal, and

(b) the authority must prepare another local transport plan and submit the plan to the Assembly for its approval.

(3) If the Assembly approves a local transport plan under this section, the plan has effect when the approval is given.

(4) The Assembly may approve a local transport plan under this section if (but only if) it considers—

(a) that the plan is consistent with the Wales Transport Strategy, and

(b) that the policies contained in the plan are adequate for the implementation in the authority's area of the Strategy.

F54 (5) . . . . . .

Textual Amendments

F53 Ss. 109A-109C inserted (26.5.2006) by Transport (Wales) Act 2006 (c. 5), s. 12, **Sch. para. 4**; S.I. 2006/1403, art. 2(2)(c)

F54 S. 109A(5) repealed (25.5.2007) by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 1(2), **Sch. 1 para. 88**

109B Further provision about plans: Wales

(1) A local transport authority whose area is in Wales must keep their local transport plan under review and alter it if they consider it appropriate to do so.

(2) The authority must in particular review the plan as soon as practicable after the publication of the Wales Transport Strategy or any revision of it.

(3) The authority must replace their local transport plan not later than five years after the date on which the plan was approved under section 109A.

(4) Section 109A applies to a replacement plan and a plan as altered as it applies to a plan as originally prepared.

(5) A local transport authority whose area is in Wales shall be taken to have complied with subsection (3) if (but only if)—

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
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(a) the authority submit their replacement plan to the National Assembly for Wales for approval under section 109A before the end of the five year period mentioned in subsection (3), and

(b) the Assembly approves the plan under section 109A (whether the approval is given before or after the end of that five year period).

(6) If an authority fail to comply with subsection (3) because they fail to submit their replacement plan to the Assembly for approval under section 109A before the end of the five year period mentioned in that subsection, the authority must replace their local transport plan as soon as practicable after the expiry of the five year period.

(7) If an authority fail to comply with subsection (3) because the Assembly refuses to approve a plan submitted to it under section 109A, the authority must replace their local transport plan as soon as practicable after the refusal.

(8) As soon as practicable after their plan, or their plan as altered, has been approved under section 109A, a local transport authority whose area is in Wales must—

(a) publish the plan or the plan as altered in such manner as they think fit, and

(b) send a copy of it to such persons (if any) as may be specified in guidance under section 112(1).

(9) The authority must also—

(a) cause a copy of their local transport plan to be made available for inspection (at all reasonable hours) at such places as they think fit,

(b) give notice, by such means as they think expedient for bringing it to the attention of the public, as to the places at which a copy of it may be inspected, and

(c) supply a copy of it (or any part of it) to any person on request, either free of charge or at a charge representing no more than the cost of providing the copy.

Textual Amendments

F53 Ss. 109A-109C inserted (26.5.2006) by Transport (Wales) Act 2006 (c. 5), s. 12, **Sch. para. 4**; S.I. 2006/1403, art. 2(2)(c)

109C Transitional provisions: Wales

(1) Where a local transport authority whose area is in Wales have, before 1st August 2001, prepared and published a document which—

(a) contains policies developed by them for the purposes described in section 108(1)(a), and

(b) was prepared and published in accordance with guidance issued by the National Assembly for Wales,

that document shall be taken to be the authority's local transport plan.

(2) But, in the case of a document which is a local transport plan by virtue of subsection (1), section 109B(3) requires its replacement not later than such date as is specified in an order made by the National Assembly for Wales (rather than not later than five years after the date on which it was approved under section 109A).

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

(3) For the purposes of section 109B(3), a local transport plan made before the coming into force of section 109A by a local transport authority whose area is in Wales shall be taken to have been approved under section 109A on the date on which it was made.**]**

Textual Amendments

F53 Ss. 109A-109C inserted (26.5.2006) by Transport (Wales) Act 2006 (c. 5), s. 12, **Sch. para. 4**; S.I. 2006/1403, art. 2(2)(c)

110 Bus strategies.

(1) Each local transport authority must prepare a document to be known as the bus strategy containing their general policies as to how best to carry out their functions (or, in the case of a Passenger Transport Authority for a passenger transport area, as to how the functions of the Passenger Transport Executive for their area would be best carried out) in order to secure that—

(a) bus services meet such of the transport requirements of persons within the authority's area as the authority consider should be met by such services,

(b) bus services meeting such requirements are provided to the standards to which the authority consider that they should be provided, and

(c) such additional facilities and services connected with bus services are provided as the authority consider should be provided.

(2) The bus strategy is to form part of the authority's local transport plan.

(3) In developing their bus strategy, the authority must have regard to any measures the authority are required or propose to take for meeting transport requirements in carrying out any functions of theirs as a local education authority or any social services functions (within the meaning of the [M48]Local Authority Social Services Act 1970) of theirs.

(4) In developing their bus strategy, a Passenger Transport Authority must seek and have regard to the advice of the Passenger Transport Executive for their area.

(5) In this Part "bus services" means services using public service vehicles.

Modifications etc. (not altering text)

C9 S. 110 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), art. 1, **Sch. 2 para. 3** (with art. 7(4))

C10 S. 110(1) excluded (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), arts. 1, **7(1)** (with art. 7(4))

Commencement Information

I106 S. 110 wholly in force at 1.8.2001; s. 110 not in force at Royal Assent see s. 275(1)(2); s. 110 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 110 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 1**

Marginal Citations

M48 1970 c. 42.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

111 Consultation and publicity about bus strategies.

(1) In complying with section 110, a local transport authority must consult—

(a) any other relevant local authority whose area may, in the opinion of the authority, be affected by the bus strategy developed by them,

(b) if the authority is a county council in England, the councils of the districts in the county (if any),

(c) either operators of bus services which are provided within the authority's area or organisations appearing to the authority to be representative of such operators, and

(d) organisations appearing to the authority to be representative of users of such services.

(2) For the purpose of subsection (1)(a) the following are relevant local authorities—

(a) local transport authorities,

(b) metropolitan district councils,

(c) London transport authorities, and

(d) councils in Scotland;

(except that, in the case of consultation by a Passenger Transport Authority for a passenger transport area, a council for a metropolitan district comprised in the area is not a relevant local authority).

(3) When an authority publish a statement of a new bus strategy or their strategy as altered in accordance with section 109(3)(a) **[**[F55]or 109B(8)(a)**]**, they must send a copy of it to each authority, council, operator or organisation consulted under subsection (1) on the occasion in question.

Textual Amendments

F55 Words in s. 111(3) inserted (26.5.2006) by Transport (Wales) Act 2006 (c. 5), s. 12, **Sch. para. 5**; S.I. 2006/1403, art. 2(2)(c)

Commencement Information

I107 S. 111 wholly in force at 1.8.2001; s. 111 not in force at Royal Assent see s. 275(1)(2); s. 111 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 111 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 1**

112 Plans and strategies: supplementary.

(1) In carrying out their functions under sections 108 to 111, a local transport authority must have regard to any guidance concerning—

(a) the content of local transport plans (and bus strategies),

(b) the preparation of such plans (and strategies),

(c) the alteration and replacement of such plans (and strategies), and

(d) the publication and making available of such plans (and strategies) as originally made and as altered or replaced,

which is issued from time to time by the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales).

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

(2) In developing their policies under section 108(1) and their bus strategy, a local transport authority must have regard to the transport needs of persons who are elderly or have mobility problems.

Modifications etc. (not altering text)

C11 S. 112 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), art. 1, **Sch. 2 para. 4** (with art. 7(4))

Commencement Information

I108 S. 112 wholly in force at 1.8.2001; s. 112 not in force at Royal Assent see s. 275(1)(2); s. 112 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 112 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 1**

113 Role of metropolitan district councils.

(1) The duties imposed on a Passenger Transport Authority for a passenger transport area by sections 108(1)(a) and (3), 109(1) to (3), 110(1) and 111(3) shall be performed by—

(a) that Authority, and

(b) the councils for the metropolitan districts comprised in the area,

acting jointly.

(2) The duties imposed on a Passenger Transport Authority for a passenger transport area by sections 108(1)(b), 109(4), 110(3) and 112 are also duties of each of the councils for the metropolitan districts comprised in the area.

(3) Section 109(5) applies in the case of a Passenger Transport Authority for a passenger transport area only if the document to which it refers has been prepared and published by—

(a) that Authority, and

(b) the councils for the metropolitan districts comprised in the area,

acting jointly.

Commencement Information

I109 S. 113 wholly in force at 1.8.2001; s. 113 not in force at Royal Assent see s. 275(1)(2); s. 113 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. 1** (subject to the savings in Sch. 3 Pt. 2); s. 113 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 1**

[F56 113A Modification of provisions about plans and strategies: Wales

(1) The National Assembly for Wales may by order modify the application of sections 108 to 111 in relation to local transport authorities whose areas are in Wales for the purpose of—

(a) permitting a local transport plan to be prepared in respect of part only of an authority's area;

(b) permitting a local transport plan to be prepared by two or more authorities jointly in respect of an area comprising all or any part or parts of their areas.

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Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

(2) An order under subsection (1) made for the purpose mentioned in subsection (1)(b) may in particular include provision for—
  (a) the plan to be prepared by one of the authorities concerned on behalf of both or all of them;
  (b) administrative arrangements, including the apportionment of the cost of preparing the plan between the authorities concerned.

(3) Before making an order under subsection (1) the Assembly must consult the local transport authorities concerned and any other persons it considers appropriate.

Textual Amendments

F56 Ss. 113A, 113B inserted (26.5.2006) by Transport (Wales) Act 2006 (c. 5), s. 12, **Sch. para. 6**; S.I. 2006/1403, art. 2(2)(c)

113B Directions concerning plans and strategies: Wales

(1) The National Assembly for Wales may issue to a local transport authority whose area is in Wales general or specific directions as to the manner in which they are to carry out their functions under sections 108 to 111.

(2) Directions issued by the Assembly under subsection (1) may include in particular directions—
  (a) as to the timetable in accordance with which a local transport plan or alterations to a local transport plan must be prepared;
  (b) as to the action required to be taken to implement the policies contained in a local transport plan;
  (c) as to the steps required to be taken to remove the effects of action which is incompatible with those policies.

(3) Directions under this section—
  (a) must be in writing;
  (b) may be varied or revoked by further directions under this section.

(4) Before issuing, varying or revoking directions under this section the Assembly must consult the local transport authority concerned and any other persons it considers appropriate.**]**

Textual Amendments

F56 Ss. 113A, 113B inserted (26.5.2006) by Transport (Wales) Act 2006 (c. 5), s. 12, **Sch. para. 6**; S.I. 2006/1403, art. 2(2)(c)

Bus services: quality partnership schemes

114 Quality partnership schemes.

(1) A local transport authority, or two or more such authorities acting jointly, may make a quality partnership scheme if they are satisfied that the scheme will to any extent implement the policies set out in their bus strategy or strategies.

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(2) A quality partnership scheme is a scheme under which—
  (a) the authority or authorities provide particular facilities in the whole or part of their area, or combined area, and
  (b) operators of local services who wish to use the facilities must undertake to provide local services of a particular standard when using them.

(3) The authority or authorities must be satisfied that both the provision of those facilities and the provision of local services of that standard will—
  (a) improve the quality of local services provided in the whole or any part of their area, or combined area, by bringing benefits to persons using those services, or
  (b) reduce or limit traffic congestion, noise or air pollution.

(4) A quality partnership scheme may not be made unless the authority or authorities have complied with the notice and consultation requirements imposed by section 115.

(5) The facilities which may be specified in a 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.

(6) The standard of services which may be specified in a scheme—
  (a) include requirements which the vehicles being used to provide the services must meet, but
  (b) do not include requirements as to frequency or timing of the services.

(7) If the provision of any of the facilities 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 or the National Assembly for Wales is the traffic authority), 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.

(8) If the provision of any of the facilities requires the making of a traffic regulation order in respect of a road for which the Secretary of State or the National Assembly for Wales is the traffic authority, the scheme may not be made unless it is made by—
  (a) the local transport authority or authorities, and
  (b) the Secretary of State or the National Assembly for Wales,

  acting jointly.

(9) Where subsection (7) or (8) applies so that a metropolitan district council, the Secretary of State or the National Assembly for Wales is a maker of the scheme, then (subject to section 121) the relevant references to the authority or authorities include (as well as the local transport authority or authorities) the metropolitan district council, the Secretary of State or the National Assembly for Wales.

(10) For the purpose of subsection (9) the relevant references are those in—
  (a) subsections (2) and (4),
  (b) sections 115 to 120, and
  (c) section 127(7),

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and paragraph 27(3) of Schedule 9 to the [M49]Road Traffic Regulation Act 1984.

(11) In carrying out their functions under this Part in relation to quality partnership schemes, local transport authorities must co-operate with one another.

(12) In considering whether to make a quality partnership scheme, a local transport authority must have regard to the desirability, in appropriate cases, of making a scheme jointly with another such authority.

Modifications etc. (not altering text)

C12 S. 114 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), art. 1, **Sch. 2 para. 5** (with art. 7(4))

C13 S. 114(6)(b) excluded (11.1.2006) by The Cambridgeshire Guided Busway Order 2005 (S.I. 2005/3523), arts. 1, **38** (with art. 52)

Commencement Information

I110 S. 114 wholly in force at 26.10.2001; s. 114 not in force at Royal Assent see s. 275(1)(2); s. 114 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 1**; s. 114 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

Marginal Citations

M49 1984 c. 27.

115 Notice and consultation requirements.

(1) If an authority or authorities propose to make a quality partnership scheme, they must give notice of the proposed scheme in at least one newspaper circulating in the area to which it relates.

(2) The notice must either contain full details of the facilities and standards of services or state where such details may be inspected.

(3) After giving notice of the proposed scheme, 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 it,

(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 it,

(d) the traffic commissioner for each traffic area covering the whole or part of the area to which it relates,

(e) the chief officer of police for each police area covering the whole or part of that area, and

(f) such other persons as the authority or authorities think fit.

(4) For the purpose of subsection (3)(c) the following are relevant local authorities—

(a) local transport authorities,

(b) metropolitan district councils,

(c) London transport authorities, and

(d) councils in Scotland.

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Modifications etc. (not altering text)

C14 S. 115 applied (with modifications) (E.) (26.10.2001) by S.I. 2001/3317, **reg. 5**
S. 115 applied (with modifications) (W.) (20.12.2002) by S.I. 2002/3017, **reg. 5**

Commencement Information

I111 S. 115 wholly in force at 26.10.2001; s. 115 not in force at Royal Assent see s. 275(1)(2); s. 115 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 1**; s. 115 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

116 Making of scheme.

(1) If the authority or authorities decide that it is appropriate to make the scheme, they may make it as proposed or with modifications.

(2) The scheme must specify—
- (a) the facilities to be provided under it by the authority or authorities,
- (b) the standard of services to be provided under it by operators of local services,
- (c) the date on which it is to come into operation, and
- (d) the period for which it is to remain in operation, which must not be less than five years.

(3) 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, subject to such conditions (if any) as may be specified in it.

(4) The date specified in the scheme as that on which it is to come into operation must not be earlier than the date by which, in the opinion of the authority or authorities, it will be reasonably practicable—
- (a) for the authority or authorities to provide the specified facilities, and
- (b) for operators of local services to provide the specified standard of services,

and, in any event, must not be earlier than the date provided by subsection (5).

(5) The date referred to in subsection (4) is three months after—
- (a) the date on which the scheme is made, or
- (b) if later, the date on which any traffic regulation order required for the provision of any of the specified facilities is made or, if more than one such order is required for that purpose, the date on which the last of them is made.

(6) Not later than 14 days after the date on which the scheme is made, the authority or authorities must give notice—
- (a) in at least one newspaper circulating in the area to which the scheme relates, and
- (b) to all operators of local services who would, in the opinion of the authority or authorities, be affected by the scheme and the traffic commissioner for each traffic area covering the whole or part of the area to which the scheme relates.

(7) The notice must—

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(a) either contain full details of the scheme or state where such details may be inspected, and

(b) if the scheme made is a modified version of that proposed, state that fact.

Commencement Information

I112 S. 116 wholly in force at 26.10.2001; s. 116 not in force at Royal Assent see s. 275(1)(2); s. 116 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 1**; s. 116 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

117 Postponement of scheme.

(1) If it appears to the authority or authorities appropriate to do so, they may decide that the date on which the scheme would otherwise come into operation shall be postponed by such period, not exceeding 12 months, as they think fit.

(2) Before making such a decision they must consult all operators of local services who would, in their opinion, be affected by the scheme.

(3) Not later than 14 days after the date on which any such decision is made they must give notice of the decision—

(a) in at least one newspaper circulating in the area to which the scheme relates, and

(b) to all operators of local services who would, in their opinion, be affected by the scheme and the traffic commissioner for each traffic area covering the whole or part of the area to which the scheme relates.

Commencement Information

I113 S. 117 partly in force; s. 117 not in force at Royal Assent see s. 275(1)(2); s. 117 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 1**; s. 117 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

118 Effect of scheme.

(1) The authority or authorities must—

(a) provide the specified facilities not later than the date on which the scheme is to come into operation, and

(b) continue to provide them throughout the period during which it remains in operation.

(2) But subsection (1) does not apply in relation to any period during which the authority or authorities are temporarily unable to provide the facilities owing to circumstances beyond their control.

(3) Nor does it apply in the case of the Secretary of State or the National Assembly for Wales if he or it is unable to provide the facilities owing to the variation or revocation of a traffic regulation order.

(4) The operator of a local service may not use facilities provided under a quality partnership scheme unless—

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(a) he has given a written undertaking to the traffic commissioner for each traffic area covering the whole or part of the area to which the scheme relates that he will provide the service to the standard specified in the scheme when using the facilities, and

(b) he provides the service to that standard when using the facilities, except in relation to any period during which he is temporarily unable to do so owing to circumstances beyond his control.

(5) But subsection (4) does not apply in relation to services which are excluded from the scheme as a result of any provision of the scheme made in accordance with section 116(3).

(6) Where the exclusion of a local service from the scheme is made subject to conditions as a result of such a provision, those conditions are to be treated, during any period in which the scheme is in operation, as if they were prescribed particulars registered under section 6 of the [M50]Transport Act 1985 (registration of local services) of the service concerned.

Commencement Information

I114 S. 118 wholly in force at 26.10.2001; s. 118 not in force at Royal Assent see s. 275(1)(2); s. 118 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 1**; s. 118 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

Marginal Citations

M50 1985 c. 67.

119 Regulations about schemes involving existing facilities.

(1) The appropriate national authority may by regulations make provision about the specifying in quality partnership schemes of facilities which are already being provided before the schemes are proposed ("existing facilities").

(2) The regulations may in particular—

(a) provide that existing facilities may not be specified if they were being provided before a date prescribed by, or determined in accordance with, the regulations,

(b) provide that particular existing facilities or classes of existing facilities may not be specified (whenever they were first provided),

(c) provide that particular existing facilities or classes of existing facilities may be specified only in circumstances prescribed by the regulations,

(d) provide that, in circumstances prescribed by the regulations, particular existing facilities or classes of existing facilities may be specified only with the consent of a person prescribed by, or determined in accordance with, the regulations, and

(e) make provision modifying any provision of sections 115 to 117 in relation to schemes which specify existing facilities.

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Commencement Information

I115 S. 119 wholly in force at 1.8.2001; s. 119 not in force at Royal Assent see s. 275(1)(2); s. 119 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 119 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 1**

120 Variation or revocation of schemes.

(1) The authority or authorities who made a quality partnership scheme may vary the scheme if they decide that it is appropriate to do so.

(2) The authority or authorities who made a scheme may revoke it before the end of the period for which it would otherwise remain in operation if all persons who have given an undertaking to provide a service to the standard specified in the scheme consent to the revocation of the scheme; and such consent must not be unreasonably withheld.

(3) If the variation of a scheme under subsection (1) would require the making of a traffic regulation order, the variation is subject to the same procedure as the making of a scheme.

(4) Any other variation of a scheme under subsection (1), or the revocation of a scheme under subsection (2), is subject to that procedure, except to the extent that the procedure is modified by regulations made under section 122.

Commencement Information

I116 S. 120 wholly in force at 26.10.2001; s. 120 not in force at Royal Assent see s. 275(1)(2); s. 120 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 1**; s. 120 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

121 Variation: supplementary.

(1) The relevant references to the authority or authorities in relation to a quality partnership scheme—
   (a) include a local transport authority if it has been varied so that it relates to that authority's area, but
   (b) do not include a local transport authority if it has been varied so that it no longer relates to that authority's area.

(2) But if (although the scheme does not relate to a local transport authority's area) it would do by reason of a proposed variation, those references (apart from those in section 118) include that authority.

(3) The relevant references (apart from those in section 114(1) and (3)) to the authority or authorities in relation to a quality partnership scheme—
   (a) include a traffic regulation authority if it has been varied so that it specifies traffic regulation facilities, but
   (b) do not include a traffic regulation authority if it has been varied so that it no longer specifies such facilities.

(4) But if (although the scheme does not specify facilities which are traffic regulation facilities in relation to a traffic regulation authority) it would do by reason of a

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proposed variation, those references (apart from those in section 118) include that authority.

(5) And if (although the scheme specifies facilities which are traffic regulation facilities 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 has been revoked, and

(b) the scheme is proposed to be varied (but not so that it specifies other facilities which are traffic regulation facilities in relation to that authority),

the relevant references (apart from those in section 118) do not include that authority.

(6) For the purposes of this section the relevant references are those in—

(a) section 114(1) to (4),

(b) sections 115 to 120, and

(c) section 127(7),

and paragraph 27(3) of Schedule 9 to the [M51]Road Traffic Regulation Act 1984.

(7) In this section "traffic regulation authority" means—

(a) a metropolitan district council,

(b) the Secretary of State, or

(c) the National Assembly for Wales.

(8) For the purposes of this section facilities are traffic regulation facilities, in relation to a traffic regulation authority and a quality 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.

Commencement Information

I117 S. 121 wholly in force at 26.10.2001; s. 121 not in force at Royal Assent see s. 275(1)(2); s. 121 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 1**; s. 121 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

Marginal Citations

M51 1984 c. 27.

122 Regulations about schemes.

(1) The appropriate national authority may by regulations make further provision with respect to—

(a) the procedure to be followed when making, varying or revoking quality partnership schemes,

(b) the local services or classes of local services which must be, or may be, excluded from schemes,

(c) the conditions which must be, or may be, attached to such exclusions,

(d) the form and manner in which undertakings are to be given to the traffic commissioner in connection with schemes,

(e) the making of traffic regulation orders in connection with schemes, and

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(f) such other incidental matters in connection with quality partnership schemes as the appropriate national authority thinks fit.

(2) The regulations may in particular make provision with respect to—

(a) giving notice of proposed schemes or proposed variations or revocation of schemes,

(b) objections to such proposals,

(c) the holding of inquiries or hearings into objections,

(d) modifications of such proposals,

(e) the form of schemes or variations, and

(f) giving notice of schemes which have been made or of the variation or revocation of schemes.

Commencement Information

I118 S. 122 wholly in force at 26.10.2001; s. 122 not in force at Royal Assent see s. 275(1)(2); s. 122 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 1**; s. 122 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

123 Guidance about schemes.

(1) The appropriate national authority may issue guidance concerning the carrying out by local transport authorities and metropolitan district councils of their functions under this Part in relation to quality partnership schemes.

(2) Those authorities and councils must have regard to any such guidance.

Commencement Information

I119 S. 123 wholly in force at 26.10.2001; s. 123 not in force at Royal Assent see s. 275(1)(2); s. 123 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 1**; s. 123 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

Bus services: quality contracts schemes

124 Quality contracts schemes.

(1) A local transport authority, or two or more such authorities acting jointly, may make a quality contracts scheme covering the whole or any part of their area, or combined area, if they are satisfied that—

(a) making a quality contracts scheme is the only practicable way of implementing the policies set out in their bus strategy or strategies in the area to which the proposed scheme relates, and

(b) the proposed scheme will implement those policies in a way which is economic, efficient and effective.

[F57(1A) A Passenger Transport Authority, or a Passenger Transport Authority jointly with one or more other local transport authorities, may also make a quality contracts scheme covering the whole or part of their area or combined area if they are satisfied—

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(a) that making a quality contracts scheme is an appropriate way of securing that the transport needs of the potential users of a relevant railway service that has been or is to be reduced or discontinued are met;

(b) that the making of the scheme will contribute, in an appropriate way, to meeting the transport needs of other persons living, working or studying in the localities served by that service;

(c) that the scheme is compatible with the local transport plan of the Passenger Transport Authority who make the scheme or (as the case may be) of each of the authorities who join in making the scheme; and

(d) that the scheme will meet the needs of the persons mentioned in paragraphs (a) and (b) in a way which is economic, efficient and effective.

(1B) A local transport authority may join in making a scheme under subsection (1A) by reference to the reduction or discontinuance of a railway passenger service only if—

(a) they are the Passenger Transport Authority, or one of the Passenger Transport Authorities, by reference to which that service is a relevant railway service in relation to the scheme;

(b) the relevant railway service by reference to which the scheme is made is or was operating in the authority's area; or

(c) the persons who live, work or study in localities served by that service include persons living, working or studying in that area.**]**

(2) A quality contracts scheme may not be made unless the authority or authorities—

(a) have complied with the notice and consultation requirements imposed by section 125, and

(b) have obtained the approval of the appropriate national authority in accordance with section 126.

(3) A quality contracts scheme is a scheme under which—

(a) the authority or authorities determine what local services should be provided in the area to which the scheme relates and any additional facilities or services which should be provided in that area, and

(b) local services may only be provided in that area in accordance with quality contracts (subject to section 127(4)).

(4) In this Part "quality contract", in relation to a quality contracts scheme, means an agreement entered into under section 130 or 131 under which—

(a) the authority or authorities grant to another person the exclusive right to operate the local services to which the contract relates, and

(b) that person undertakes to provide the services on such terms (including in particular as to frequency, fares and standard of service) as may be specified in the agreement.

(5) A quality contract may be made on terms—

(a) which include provision for the making of payments by the authority or authorities to the person undertaking to provide the local service, and

(b) requiring one or more of the parties to provide additional facilities or services.

(6) Section 88(1) of the [M52]Transport Act 1985 (application to subsidy agreements of sections 89 to 92 of that Act) does not apply in relation to quality contracts.

(7) The authority or authorities must keep under review the extent to which quality contracts entered into by them are complied with.

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(8) In carrying out their functions under this Part in relation to quality contracts schemes, local transport authorities must co-operate with one another.

(9) In considering whether to make a quality contracts scheme, a local transport authority must have regard to the desirability, in appropriate cases, of making a scheme jointly with another authority.

[[F58](10) In subsection (1A) the references to a local transport plan, in the case of a local transport authority not having a local transport plan, are references to the policies developed by that authority under section 108(1)(a).

(11) In this section "relevant railway service"—

(a) in relation to a scheme made by a single Passenger Transport Authority acting alone, means—

(i) a railway passenger service operating entirely within the area of that Authority; or

(ii) the part of a railway passenger service so operating;

(b) in relation to a scheme made jointly by more than one local transport authority, means—

(i) a railway passenger service operating wholly or primarily within the area of a Passenger Transport Authority who join in making the scheme;

(ii) a railway passenger service operating wholly or primarily within the combined area of two or more Passenger Transport Authorities who join in making the scheme; or

(iii) the part of a railway passenger service operating as mentioned in sub-paragraph (i) or (ii).

(12) In this section—

"potential users", in relation to a relevant railway service, means persons who (but for the reduction or discontinuance of the service) would have made use of it; and

"railway passenger service" has the same meaning as in the Railways Act 1993 (c. 43) (see section 83(1) of that Act).

(13) For the purposes of references in this section to where a railway passenger service or part of such a service operates—

(a) a service shall be treated as operating at each of the places where stops are made at stations for the purpose of allowing passengers to join or leave the service; and

(b) a part of a service is any part of that service so far as it operates at any one or more of those places.**]**

Textual Amendments

F57 S. 124(1A)(1B) inserted (1.12.2006) by Railways Act 2005 (c. 14), **ss. 39(1)**, 60(2); S.I. 2006/2911, art. 2, Sch.

F58 S. 124(10)-(13) inserted (1.12.2006) by Railways Act 2005 (c. 14), **ss. 39(2)**, 60(2); S.I. 2006/2911, art. 2, Sch.

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Modifications etc. (not altering text)

C15 S. 124 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), art. 1, **Sch. 2 para. 6** (with art. 7(4))

Commencement Information

I120 S. 124 partly in force; s. 124 not in force at Royal Assent see s. 275(1)(2); s. 124 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 3**; s. 124 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

Marginal Citations

M52 1985 c. 67.

125 Notice and consultation requirements.

(1) If an authority or authorities propose to make a quality contracts scheme, they must give notice of the proposed scheme in at least one newspaper circulating in the area to which it relates.

(2) The notice must—
- (a) describe the proposed scheme,
- (b) state where a copy of the scheme may be inspected, and
- (c) state their reasons for wishing to make the scheme.

(3) After giving notice of the proposed scheme, the authority or authorities must consult—
- (a) all persons operating local services in the area to which it relates,
- (b) all other persons holding a PSV operator's licence or a community bus permit who would, in the opinion of the authority or authorities, be affected by it,
- (c) such organisations appearing to the authority or authorities to be representative of users of local services as they think fit,
- (d) any other relevant local authority any part of whose area would, in the opinion of the authority or authorities, be affected by it,
- (e) the traffic commissioner for each traffic area covering the whole or part of the area to which it relates,
- (f) the chief officer of police for each police area covering the whole or part of that area, and
- (g) such other persons as the authority or authorities think fit.

(4) For the purpose of subsection (3)(d) the following are relevant local authorities—
- (a) local transport authorities,
- (b) district councils in England,
- (c) London transport authorities, and
- (d) councils in Scotland.

(5) The authority or authorities may modify the proposed scheme following those consultations.

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Commencement Information

I121 S. 125 partly in force; s. 125 not in force at Royal Assent see s. 275(1)(2); s. 125 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 3**; s. 125 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

126 Approval of proposed scheme.

(1) If, having complied with section 125, the authority or authorities wish to proceed with the proposed scheme, they must apply to the appropriate national authority for its approval.

(2) The application must include—

(a) their reasons for wishing to make the scheme, and

(b) such other information as the appropriate national authority may reasonably require.

(3) Any person consulted under section 125(3) may make written representations to the appropriate national authority about the scheme.

(4) The appropriate national authority may approve the proposed scheme, with or without modifications, if it is satisfied that—

(a) the conditions set out in paragraphs (a) and (b) of section 124(1) **[**[F59]or (as the case may be) paragraphs (a) to (d) of section 124(1A)**]** are met, and

(b) it is in the interests of the public that the scheme is made.

(5) If the appropriate national authority proposes to approve the scheme with modifications, it must first inform the authority or authorities and they must—

(a) consult such of the persons they consulted under section 125(3) as would, in their opinion, be affected by those modifications, and

(b) inform the appropriate national authority as to the outcome of that consultation.

(6) After being informed of that outcome the appropriate national authority may approve the scheme either with those modifications or without modifications.

Textual Amendments

F59 Words in s. 126(4) inserted (1.12.2006) by Railways Act 2005 (c. 14), **ss. 39(3)**, 60(2); S.I. 2006/2911, art. 2, Sch.

Commencement Information

I122 S. 126 partly in force; s. 126 not in force at Royal Assent see s. 275(1)(2); s. 126 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 3**; s. 126 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

[[F60]126B Advice by boards or their Commissioners

(1) This section applies at any time after the traffic commissioner who is to chair the QCS board for the proposed scheme has been designated under section 126A.

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(2) The QCS board may give advice about matters of a procedural nature to any person who requests it before the end of the appropriate period.

(3) For the purposes of subsection (2), the end of the appropriate period is—
- (a) the date on which a scheme is made, or
- (b) if no scheme is made, the date on which the authority or authorities give notice to the board under section 126C(7) that they have decided not to proceed with the proposed scheme.

(4) The board may not, under subsection (2), give advice about the merits of the proposed scheme.

(5) If the Secretary of State thinks it appropriate to do so in connection with securing propriety in the giving of advice under subsection (2), the Secretary of State may by regulations make provision about the giving of advice under that subsection (but not about what the advice is to be).

(6) In particular, regulations under subsection (5) may make provision that has the effect that—
- (a) a person's request for advice under subsection (2), or
- (b) advice given under subsection (2) to a person,

must be, or may be, disclosed by the board to persons other than that person or to the public generally.

(7) In relation to requests received at any time before the members of the board have been designated, the functions of the board under this section are exercisable on behalf of the board by the traffic commissioner who has been designated to chair the board.**]**

Textual Amendments

F60 S. 126B inserted (26.11.2008 for specified purposes, 11.1.2010 for E. in so far as not already in force) by Local Transport Act 2008 (c. 26), **ss. 23**, 134(1)(c)(4); S.I. 2009/3242, art. 2(1)(a)

[[F61]126E Practice and procedure of boards

(1) The Secretary of State may make regulations—
- (a) with respect to the constitution of a QCS board,
- (b) with respect to the powers and duties of any such board,
- (c) governing the practice and procedure to be followed by any such board, and
- (d) generally for the carrying into effect of the powers and duties of any such board.

(2) The provision that may be made by regulations under subsection (1) includes—
- (a) provision about requests under section 126C(4);
- (b) provision for an acknowledgement of the receipt of any such request to be issued by such person, and within such time, as may be prescribed in the regulations;
- (c) the procedure to be followed in cases where a further request under section 126C(4) is sent to the QCS board by virtue of section 126C(6) in relation to a proposed scheme which has been modified (the “modified scheme”);

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(d) provision for or in connection with the making of representations about the modified scheme;

(e) the publication by the board of provisional findings before it publishes its report.

(3) Regulations may prescribe the time within which the Secretary of State considers that any QCS board should normally have published its report.

(4) It is the duty of a QCS board to take all reasonable steps to publish its report within that time.

(5) If a QCS board does not publish its report within that time, the Commissioner must immediately prepare a statement of—

(a) the reasons why the board has not published its report within that time;

(b) the action the board is taking to publish its report as soon as reasonably practicable;

(c) the time within which it is expected that the board will publish its report.

(6) As soon as reasonably practicable after the statement required by subsection (5) has been prepared, the Commissioner must send a copy of it to each of the following—

(a) the Secretary of State;

(b) the authority or authorities proposing to make the scheme.

(7) The Secretary of State may issue guidance concerning the carrying out by a QCS board of its functions under this Part in relation to quality contracts schemes.

(8) A QCS board must have regard to any such guidance.

(9) In this section—

"the Commissioner" has the same meaning as in section 126A;

"regulations" means regulations made by the Secretary of State;

"report" means the report which the board is required to publish by virtue of section 126D(5).**]**

Textual Amendments

F61 S. 126E inserted (26.11.2008 for specified purposes, 11.1.2010 for E. in so far as not already in force) by Local Transport Act 2008 (c. 26), **ss. 25**, 134(1)(c)(4); S.I. 2009/3242, art. 2(1)(a)

127 Making of scheme.

(1) If the appropriate national authority approves the scheme, the authority or authorities who proposed it may make it as approved at any time not later than six months after the date of the approval.

(2) The scheme must specify—

(a) the area to which it relates,

(b) the date on which it is to come into operation, which must not be earlier than 21 months after the date on which it is made, and

(c) the period for which it is to remain in operation, which must not be more than ten years.

(3) The scheme must outline—

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(a) the local services which are to be provided under quality contracts, and
(b) the features of the proposed invitations to tender for quality contracts.

(4) 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, subject to such conditions (if any) as may be specified in it.

(5) The scheme may contain such ancillary provisions as the authority or authorities think fit.

(6) The scheme may include provision—
(a) varying or revoking any quality partnership scheme which only relates to the area of the authority, or combined area of the authorities, by which the scheme is made, or
(b) varying any other quality partnership scheme to the extent that it so relates.

(7) If provision is made under subsection (6)(b) to vary the quality partnership scheme so that it no longer so relates, such of the authorities by which it was made as did not make the quality contracts scheme—
(a) may (subject to the provision so made) vary it if they decide that it is appropriate to do so, or
(b) may revoke it if all persons who have given an undertaking to provide a service to a standard specified in the scheme consent to the revocation of the scheme (which consent must not be unreasonably withheld);
and subsections (3) and (4) of section 120 apply to a variation or revocation under this subsection.

(8) Not later than 14 days after the date on which the scheme is made, the authority or authorities must—
(a) give notice in at least one newspaper circulating in the area to which the scheme relates, and
(b) send a copy of the scheme to the traffic commissioner for each traffic area covering the whole or part of that area.

(9) The notice must state—
(a) that the scheme has been made,
(b) where a copy of the scheme may be inspected, and
(c) the date on which the scheme is to come into operation.

[[F62](10) The appropriate national authority may by order vary any of the periods mentioned in subsection (1A), (1B) or (2A).**]**

Textual Amendments

F62 S. 127(10) substituted (26.11.2008 for specified purposes, 11.1.2010 for E. in so far as not already in force) by Local Transport Act 2008 (c. 26), **ss. 26(8)**, 134(1)(c)(4); S.I. 2009/3242, art. 2(1)(a)

Modifications etc. (not altering text)

C16 S. 127(2)(b) modified (1.3.2005) by The Transport Act 2000 (Commencement of Quality Contracts Schemes) (England) Order 2005 (S.I. 2005/75), arts. 1, **2**

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
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Commencement Information

I123 S. 127 partly in force; s. 127 not in force at Royal Assent see s. 275(1)(2); s. 127 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 3**; s. 127 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

128 Postponement of scheme.

(1) If it appears to the authority or authorities who made the scheme appropriate to do so, they may decide that the date on which the scheme would otherwise come into operation shall be postponed by such period as they think fit (subject to any provision of regulations made under subsection (4)).

(2) Before making such a decision they must consult all operators of local services who would, in their opinion, be affected by the decision.

(3) Not later than 14 days after the date on which any such decision is made they must give notice of the decision—

(a) in at least one newspaper circulating in the area to which the scheme relates, and

(b) to all operators of local services who would, in their opinion, be affected by the decision and the traffic commissioner for each traffic area covering the whole or part of the area to which the scheme relates.

(4) The appropriate national authority may by regulations make provision with respect to postponements under subsection (1).

(5) The regulations may in particular make provision—

(a) as to the maximum period of postponements, and

(b) requiring authorities to re-issue invitations to tender in accordance with section 130.

Commencement Information

I124 S. 128 partly in force; s. 128 not in force at Royal Assent see s. 275(1)(2); s. 128(4) wholly in force and s. 128(1)-(3)(5) in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, Sch. 1 paras. 2, **3**; s. 128 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

129 Effect of scheme.

(1) During any period in which the scheme is in operation—

(a) sections 6 to 9 of the [M53]Transport Act 1985 (registration of local services) do not have effect in relation to the area to which it relates, and

(b) no local service shall be provided in that area (if there is a stopping place for the service in that area) unless it is provided under a quality contract.

(2) But subsection (1) does not apply in relation to services which are excluded from the scheme as a result of any provision of the scheme made in accordance with section 127(4).

(3) Where the exclusion of a local service from the scheme is made subject to conditions as a result of such a provision, those conditions are to be treated, during any period

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in which the scheme is in operation, as if they were prescribed particulars registered under section 6 of the [M54]Transport Act 1985 of the service concerned.

(4) The authority or authorities must invite tenders in accordance with section 130 not later than—

(a) three months, or

(b) such other period as the appropriate national authority may by order specify,

after the scheme has been made.

Commencement Information

I125 S. 129 partly in force; s. 129 not in force at Royal Assent see s. 275(1)(2); s. 129 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 3**; s. 129 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

Marginal Citations

M53 1985 c. 67.

M54 1985 c. 67.

130 Tendering for quality contracts.

(1) The authority, or the authorities acting jointly, must invite tenders for the provision of services to which the scheme relates for such period and on such basis as may be specified in the invitation to tender.

(2) The period specified must not exceed five years.

(3) Subject to subsection (4), such an invitation—

(a) must be issued generally, in such manner as the authority or authorities consider appropriate for bringing it to the attention of persons who may be interested, and

(b) must also be issued individually to all persons who have given to that authority or any of those authorities a written notice indicating that they wish to receive invitations to tender for the provision of local services of a description to which the invitation relates.

(4) Such a notice must specify the address to which such an invitation is to be directed, and it shall be sufficient for the purposes of subsection (3)(b) if the authority or authorities send the invitation to the person giving such a notice at the address so specified.

(5) The authority or authorities may only accept a tender submitted by a person who is the holder of either—

(a) a PSV operator's licence, or

(b) a community bus permit.

(6) But subsection (5)(a) does not include a licence to which a condition is attached under section 26 of the [M55]Transport Act 1985 (power of traffic commissioner to attach conditions to licences) prohibiting the holder from using vehicles under the licence to provide local services of all descriptions or of any description to which the invitation relates.

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(7) After entering into a quality contract, the authority or authorities must give notice to the traffic commissioner for each traffic area covering the whole or part of the area to which the scheme relates of—

(a) the local services to be provided in accordance with the contract, and

(b) the duration of the contract.

(8) The appropriate national authority may by regulations make provision requiring authorities to publish prescribed information about tenders submitted to them in accordance with this section or about their reasons for entering into particular quality contracts.

Commencement Information

I126 S. 130 partly in force; s. 130 not in force at Royal Assent see s. 275(1)(2); s. 130(8) wholly in force and s. 130(1)-(7) in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, Sch. 1 paras. 2, **3**; s. 130 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

Marginal Citations

M55 1985 c. 67.

131 Exceptions from section 130.

(1) Section 130 does not apply in any case where it appears to the authority or authorities that action is urgently required for the purpose of—

(a) maintaining an existing service,

(b) securing the provision of a service in place of a service which has ceased to operate, or

(c) securing the provision of a service to meet any public transport requirement which has arisen unexpectedly and ought in the opinion of the authority to be met without delay.

(2) The appropriate national authority may by regulations make provision for further exceptions from section 130, including in particular with respect to—

(a) cases in which no tender, or no acceptable tender, is submitted in response to an invitation to tender issued under section 130(1) or under any provision made by virtue of subsection (5)(a), and

(b) agreements of a prescribed description.

(3) The appropriate national authority may make regulations fixing the maximum duration of a quality contract entered into under subsection (1) or under any provision made by virtue of subsection (2).

(4) The appropriate national authority may by regulations make further provision with respect to exceptions from section 130.

(5) Regulations under subsection (4) may in particular—

(a) require authorities to invite tenders for the provision of a service which is the subject of a quality contract made under subsection (1) or under any provision made by virtue of subsection (2), and

(b) require authorities to publish prescribed information (including as to their reasons for entering into particular quality contracts) or to give notices.

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Commencement Information

I127 S. 131 partly in force; s. 131 not in force at Royal Assent see s. 275(1)(2); s. 131(2)(3)(4) wholly in force and s. 131(1)(5) in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, Sch. 1 paras. 2, **3**; s. 131 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

[F63 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.

(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—

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(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 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

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the proposal for continuation under section 131A was not an exempt continuation proposal.**]**

Textual Amendments

F63 S. 131E inserted (26.11.2008 for specified purposes, 11.1.2010 for E. in so far as not already in force) by Local Transport Act 2008 (c. 26), **ss. 35**, 134(1)(c)(4); S.I. 2009/3242, art. 2(1)(a)

132 Variation or revocation of scheme.

(1) The authority or authorities who made the scheme (other than any to whose area the scheme no longer relates) may vary it by—

(a) increasing the area to which it relates (to no greater than the whole of their area or combined area) or adding to the description of local services which are to be provided under quality contracts,

(b) reducing that area or reducing the description of services, or

(c) providing for new exclusions from the scheme or for the variation or revocation of existing exclusions.

(2) The scheme may not be varied under subsection (1)(a) unless the conditions set out in **[**F64subsection (1)(a) and (b) of section 124 or those set out in subsection (1A)(a) to (d) of that section**]** are met with respect to the scheme as varied.

(3) The scheme may not be varied under subsection (1)(b) unless **[**F65the relevant conditions**]** —

(a) are no longer met with respect to it, but

(b) are met with respect to the scheme as varied.

(4) The authority or authorities who made the scheme (other than any to whose area the scheme no longer relates) may revoke the scheme—

(a) if **[**F66the relevant conditions**]** are no longer met with respect to it, or

(b) if they and one or more other authorities make a quality contracts scheme covering the whole or part of the area to which it relates.

[F67(4A) In subsections (3) and (4) "the relevant conditions" means—

(a) in the case of a scheme made under section 124(1) and not subsequently varied under subsection (1)(a) of this section, the conditions set out in section 124(1)(a) and (b);

(b) in the case of a scheme made under section 124(1A) and not subsequently varied under subsection (1)(a) of this section, the conditions set out in section 124(1A)(a) to (d); and

(c) in the case of a scheme that has been varied under subsection (1)(a) of this section, the conditions by reference to which it was last so varied.**]**

(5) The variation or revocation of the scheme under subsection (1) or (4)—

(a) requires the approval of the authority which approved the making of the scheme, and

(b) is subject to the same procedure as the making of a scheme, except to the extent that that procedure is modified by regulations made by the appropriate national authority;

and section 130 applies to a varied scheme but subject to regulations so made.

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Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

(6) The appropriate national authority may by regulations provide that in prescribed circumstances quality contracts schemes may be revoked by that authority before coming into operation.

Textual Amendments

F64 Words in s. 132(2) substituted (1.12.2006) by Railways Act 2005 (c. 14), **ss. 39(4)(a)**, 60(2); S.I. 2006/2911, art. 2, Sch.

F65 Words in s. 132(3) substituted (1.12.2006) by Railways Act 2005 (c. 14), **ss. 39(4)(b)**, 60(2); S.I. 2006/2911, art. 2, Sch.

F66 Words in s. 132(4) substituted (1.12.2006) by Railways Act 2005 (c. 14), **ss. 39(4)(b)**, 60(2); S.I. 2006/2911, art. 2, Sch.

F67 S. 132(4A) inserted (1.12.2006) by Railways Act 2005 (c. 14), **s. 39(4)(c)**(5), 60(2); S.I. 2006/2911, art. 2, Sch.

Commencement Information

I128 S. 132 partly in force; s. 132 not in force at Royal Assent see s. 275(1)(2); s. 132(6) wholly in force and s. 132(1)-(5) in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, Sch. 1 paras. 2, **3**; s. 132 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

[F68 132A Appeals where proposed variation considered exempt

(1) This section applies where an authority or authorities who propose to vary a quality contracts scheme under section 132—

(a) decide that the proposal is an exempt variation for the purposes of that section, and

(b) acting on the basis of that decision, decide to vary the scheme under that section.

(2) Any person falling within subsection (3) may appeal to the Transport Tribunal against—

(a) the decision of the authority or authorities that the variation is an exempt variation for the purposes of section 132, or

(b) the decision of the authority or authorities as to the variation of the scheme under that section.

(3) The persons are—

(a) any person who was consulted under section 125(3) (as it applies by virtue of subsection (8) or, as the case may be, (9)(b) of section 132 in a case where the variation is an exempt variation for the purposes of section 132),

(b) any person who was not so consulted, but who, in the opinion of the Transport Tribunal, ought to have been so consulted.

(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

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(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, to the extent of the variation made by the authority or authorities, 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.

(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 subsection (8) or, as the case may be, (9)(b) of section 132 in a case where the variation is an exempt variation for the purposes of section 132),

(c) make such variations of the scheme 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 the scheme relates only if they are of the opinion that the conditions in section 132(3) are met.

(9) If, on an appeal under paragraph (a) or (b) of subsection (2), the Tribunal decide that the variation was not an exempt variation for the purposes of section 132—

(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 (10) to (13) have effect.

(10) 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 have effect where a proposed variation under section 132 is not an exempt variation,

(b) directions to make variations specified in the directions for the purpose of securing that the condition in paragraph (a), (b) or (c) of section 132(11) (meaning of "exempt variation") is met in the case of the variation,

(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.

(11) Where the Tribunal give directions falling within subsection (10), 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.

(12) If the scheme or proposed scheme relates to an area in Wales, the Tribunal may not make any order which has the effect of—

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(a) giving approval under section 126 as it applies by virtue of section 132, 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 (10)(c).

(13) The appropriate national authority may make regulations with respect to the procedure to be followed in cases where the Tribunal decide that the variation or proposed variation was not an exempt variation for the purposes of section 132.**]**

Textual Amendments

F68 S. 132A inserted (26.11.2008 for specified purposes, 11.1.2010 for E. in so far as not already in force) by Local Transport Act 2008 (c. 26), **ss. 38**, 134(1)(c)(4); S.I. 2009/3242, art. 2(1)(a)

133 Regulations about schemes.

(1) The appropriate national authority may by regulations make further provision with respect to—
(a) the procedure to be followed when making, varying or revoking quality contracts schemes,
(b) the approval of schemes,
(c) the local services or classes of local services which are to be, or may be, excluded from schemes,
(d) the conditions which must be, or may be, attached to such exclusions, and
(e) such other incidental matters in connection with quality contracts schemes as the appropriate national authority thinks fit.

(2) The regulations may in particular make provision with respect to—
(a) giving notice of proposed schemes or proposed variations or revocation of schemes,
(b) objections to such proposals,
(c) the holding of inquiries or hearings into objections,
(d) modifications of such proposals,
(e) the form and manner of applications for approval of such proposals,
(f) the form of schemes or variations, and
(g) giving notice of schemes which have been made or of the variation or revocation of schemes.

[[F69](3) The appropriate national authority may also make regulations modifying or excluding the application of provisions of this Part, so far as relating to quality contracts schemes, in cases where a local transport authority, or two or more local transport authorities acting jointly, do any of the following—
(a) by virtue of section 126C(6), send to a QCS board a further request under section 126C(4) and modified proposals under section 126C(5),
(b) propose or decide that a scheme should continue in operation (with or without modification) under section 131A,
(c) propose or decide to vary or revoke a scheme under section 132.

(4) Regulations made by virtue of subsection (3) must not exclude any requirement for the authority or authorities—

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(a) under section 126, to obtain the approval of the Welsh Ministers,

(b) under section 127(1A), to publish their response to the report of the QCS board.**]**

Textual Amendments

F69 S. 133(3)(4) inserted (26.11.2008 for specified purposes, 11.1.2010 for E. in so far as not already in force) by Local Transport Act 2008 (c. 26), **ss. 41(6)**, 134(1)(c)(4); S.I. 2009/3242, art. 2(1)(a)

Commencement Information

I129 S. 133 wholly in force at 26.10.2001; s. 133 not in force at Royal Assent see s. 275(1)(2); s. 133 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 2**; s. 133 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

134 Transitional provision about schemes.

(1) The appropriate national authority may by regulations make such transitional provision as it considers appropriate in connection with—

(a) the coming into operation of quality contracts schemes,

(b) the variation of such schemes, and

(c) the ending of such schemes (whether or not as a result of their revocation).

(2) The regulations may in particular provide that in prescribed circumstances—

(a) any provision of sections 6 to 9 of the [M56]Transport Act 1985 (registration of local services) 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.

[[F70](3) Any regulations made by virtue of paragraph (a) of subsection (1) are not to have effect in the case of any quality contracts scheme as respects any time before the making of the scheme.**]**

Textual Amendments

F70 S. 134(3) inserted (26.11.2008 for specified purposes, 11.1.2010 for E. in so far as not already in force) by Local Transport Act 2008 (c. 26), **ss. 42(5)**, 134(1)(c)(4); S.I. 2009/3242, art. 2(1)(a)

Commencement Information

I130 S. 134 wholly in force at 26.10.2001; s. 134 not in force at Royal Assent see s. 275(1)(2); s. 134 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 2**; s. 134 in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

Marginal Citations

M56 1985 c. 67.

[[F71]134B Quality contracts: application of TUPE

(1) Subsection (3) applies to a situation in which—

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(a) on the coming into force of a quality contract, local services cease to be provided by a person (the "former operator") in the area to which the relevant quality contracts scheme, or (in the case of a scheme which provides for different provisions to come into operation on different dates) the relevant provision of the scheme, relates, in accordance with section 129(1)(b), and

(b) at the same time, a person (the "new operator") begins to provide local services in that area under that quality contract.

(2) Subsection (3) also applies to a situation in which—

(a) local services which, on the coming into force of a quality contract, a person (the "former operator") would be required by virtue of section 129(1)(b) to cease providing in the area mentioned in subsection (1)(a) of this section, cease to be provided by the former operator before the coming into force of that quality contract, and

(b) at the same time, a person (the "new operator") begins to provide local services in that area under an agreement which the authority or authorities who made the relevant quality contracts scheme entered into by reason of the cessation of the local services referred to in paragraph (a).

(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 sections 257 and 258 of the Pensions Act 2004 and 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 a quality contracts scheme relates to provide the authority or authorities who made 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);

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(d) provision requiring the authority or authorities who made a quality contracts 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 who made a quality contracts scheme to ensure that any quality contract entered into with a person under 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 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 quality contracts 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

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section, a contract of employment with a person providing local services in the area referred to in paragraph (a);

"relevant date", in relation to a quality contracts 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

(ii) as a result of either the variation of the scheme, or the continuation of the scheme with modifications, those services became subject to the scheme,

the date on which that variation, or (as the case may be) the decision to continue the scheme with those modifications, was made;

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

(11) A person is guilty of an offence under this subsection if—

(a) the person provides information in accordance with a requirement imposed by virtue of subsection (7)(c),

(b) the information is false or misleading in a material particular, and

(c) the person knows that it is or is reckless as to whether it is.

(12) A person who is guilty of an offence under subsection (11) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.**]**

Textual Amendments

F71 S. 134B inserted (26.11.2008 for specified purposes, 11.1.2010 for E. in so far as not already in force) by Local Transport Act 2008 (c. 26), **ss. 44(1)**, 134(1)(c)(4); S.I. 2009/3242, art. 2(1)(a)

Bus services: ticketing schemes

135 Joint and through ticketing schemes.

(1) A local transport authority, or two or more such authorities acting jointly, may make a ticketing scheme covering the whole or any part of their area, or combined area, if they consider that the proposed scheme—

(a) would be in the interests of the public, and

(b) would to any extent implement the policies set out in their bus strategy.

(2) A ticketing scheme may not be made unless the authority or authorities have complied with the notice and consultation requirements imposed by section 136.

(3) A ticketing scheme is a scheme under which operators of local services of a class specified in it are required to make and implement arrangements under which persons may purchase, in a single transaction, a ticket (or tickets) of any of the descriptions which may be covered by a ticketing scheme and to which the scheme applies.

(4) The descriptions of tickets which may be covered by a ticketing scheme are—

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(a) tickets entitling the holder to make more than one journey on particular local services or on local services of a class specified in the scheme (whether or not operated by the same person),

(b) tickets entitling the holder to make a particular journey on two or more local services (whether or not operated by the same person),

(c) where a particular journey could be made on local services provided by any of two or more operators, tickets entitling the holder to make the journey on whichever service the holder chooses, and

(d) tickets entitling the holder to make a journey, or more than one journey, involving both travel on one or more local services and travel by one or more connecting rail or tram services.

(5) A connecting rail or tram service, in relation to a ticketing 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 ticketing scheme relates, and

(b) any other place.

(6) Different arrangements may be specified in a ticketing scheme for different cases.

(7) In carrying out their functions under this Part in relation to ticketing schemes, local transport authorities must co-operate with one another.

(8) In considering whether to make a ticketing scheme, a local transport authority must have regard to the desirability, in appropriate cases, of making a scheme jointly with another authority.

Modifications etc. (not altering text)

C17 S. 135 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), art. 1, **Sch. 2 para. 7** (with art. 7(4))

Commencement Information

I131 S. 135 wholly in force at 1.8.2001; s. 135 not in force at Royal Assent see s. 275(1)(2); s. 135 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 135 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 4**

136 Notice and consultation requirements.

(1) If an authority or authorities propose to make a ticketing scheme, they must give notice of the proposed scheme in at least one newspaper circulating in the area to which it relates.

(2) The notice must specify the date on which the scheme is proposed to come into operation.

(3) After giving notice of the proposed scheme, 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 it,

(b) such organisations appearing to the authority or authorities to be representative of users of local services as they think fit, and

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(c) the traffic commissioner for each traffic area covering the whole or part of the area to which it relates.

Commencement Information

I132 S. 136 wholly in force at 1.8.2001; s. 136 not in force at Royal Assent see s. 275(1)(2); s. 136 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 136 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 4**

137 Making of scheme.

(1) If the authority or authorities decide that it is appropriate to make the scheme, they may make it as proposed or with modifications.

(2) If the scheme applies to tickets within section 135(4)(d), it may only be made with the agreement of the operators of the connecting rail or tram services concerned.

(3) The scheme must specify the date on which it is to come into operation, which must not be earlier than three months after the date on which it is made.

(4) Not later than 14 days after the date on which the scheme is made, the authority or authorities must give notice of it—

(a) in at least one newspaper circulating in the area to which it relates,

(b) to the traffic commissioner for each traffic area covering the whole or part of that area,

(c) to all operators of local services or services for the carriage of passengers by railway or by tramway (or by both) who would, in the opinion of the authority or authorities, be affected by it,

(d) to the **[**[F72]Secretary of State**]** if it applies to tickets within section 135(4)(d), and

(e) in such other manner, or to such other persons or class of person, (if any) as the appropriate national authority may prescribe by regulations.

(5) The notice must set out the terms of the scheme and the date on which it is to come into operation.

(6) The authority or authorities may vary or revoke the scheme; and the variation or revocation is subject to the same procedure as the making of the scheme, except to the extent that that procedure is modified by regulations made by the appropriate national authority.

Textual Amendments

F72 Words in s. 137(4)(d) substituted (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 12 para. 17(2)**; S.I. 2005/1909, art. 2, Sch.

Commencement Information

I133 S. 137 wholly in force at 1.8.2001; s. 137 not in force at Royal Assent see s. 275(1)(2); s. 137 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 137 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 4**

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138 Effect of scheme.

During any period in which a ticketing scheme is in operation, operators of local services to which the scheme relates must make and implement the arrangements required by the scheme.

Commencement Information

I134 S. 138 wholly in force at 1.8.2001; s. 138 not in force at Royal Assent see s. 275(1)(2); s. 138 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 138 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 4**

Bus services: provision of information

139 Information about bus services.

(1) Each local transport authority must from time to time determine, having regard to their local transport plan—

(a) what local bus information should be made available to the public ("the required information"), and

(b) the way in which it should be made available ("the appropriate way").

(2) Before making such a determination, the authority must consult—

(a) such organisations appearing to the authority to be representative of users of local services as they think fit, and

(b) the traffic commissioner for the traffic area covering their area.

(3) Each authority must from time to time ascertain whether the required information is being made available to the public in the appropriate way.

(4) Subsection (5) applies if an authority consider that—

(a) the required information is not being made available to the public to any extent, or

(b) that information is not being made available to the public in the appropriate way.

(5) If this subsection applies, the authority must seek to make arrangements with the operators of the local services concerned under which those operators agree to make the information available (or to make it available in that way).

(6) In this section "local bus information", in relation to a local transport authority, means—

(a) information about routes and timetabling of local services to, from and within the authority's area,

(b) information about fares for journeys on such local services, and

(c) such other information about facilities for disabled persons, travel concessions, connections with other public passenger transport services or other matters of value to the public as the authority consider appropriate in relation to their area.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

Modifications etc. (not altering text)

C18 S. 139 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), art. 1, **Sch. 2 para. 8** (with art. 7(4))

Commencement Information

I135 S. 139 wholly in force at 1.8.2001; s. 139 not in force at Royal Assent see s. 275(1)(2); s. 139 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 139 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 4**

140 Duty of authority to make information available.

(1) If the authority are unable to make satisfactory arrangements with one or more of those operators, they—

(a) must make available, or secure that there is made available, in the appropriate way such of the required information as is not being made available or is not being made available in that way (whether by virtue of arrangements made under section 139(5) or otherwise), and

(b) may recover from that operator or those operators the reasonable costs incurred by them in doing so as a civil debt due to them.

(2) In determining for the purposes of subsection (1)(b) what is reasonable in relation to a particular operator, the authority must have regard to—

(a) the amount of information which has to be made available, and

(b) the way in which that information has to be made available,

in respect of the local services provided by that operator.

(3) If the authority require an operator to provide information to them or to another person in order to perform their duty under subsection (1)(a), the operator must provide the information at such times and in such manner as is specified by the authority.

(4) The authority must give notice of any requirement imposed under subsection (3) to the traffic commissioner for the traffic area covering their area.

Commencement Information

I136 S. 140 wholly in force at 1.8.2001; s. 140 not in force at Royal Assent see s. 275(1)(2); s. 140 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 140 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 4**

141 Bus information: supplementary.

(1) In considering how they should carry out their functions under sections 139 and 140, a local transport authority must have regard to a combination of economy, efficiency and effectiveness.

(2) In carrying out those functions, local transport authorities—

(a) must not act in such a way as to discriminate (whether directly or indirectly) against any operator, or class of operator, of local services, and

(b) must co-operate with one another.

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(3) A local transport authority must have regard to the desirability, in appropriate cases, of carrying out those functions jointly with another authority (whether as respects the whole or any part of their combined area).

Commencement Information

I137 S. 141 wholly in force at 1.8.2001; s. 141 not in force at Royal Assent see s. 275(1)(2); s. 141 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 141 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 4**

Bus services: miscellaneous

142 Traffic regulation conditions to reduce or limit pollution.

In section 7 of the [M57]Transport Act 1985 (traffic regulation conditions to be met in provision of local services subject to registration), in subsection (4) (reasons for which conditions may be determined), insert at the end "; or

(c) reduce or limit noise or air pollution."

Commencement Information

I138 S. 142 wholly in force at 1.8.2001; s. 142 not in force at Royal Assent see s. 275(1)(2); s. 142 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 142 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 4**

Marginal Citations

M57 1985 c. 67.

143 Power to obtain information about local services.

(1) A local transport authority may, in connection with the exercise of any of their functions relating to public transport, require an operator of local services to provide them with any information relating to the matters specified in subsection (2) which is in his possession or control.

(2) The matters referred to in subsection (1) 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 its area,

(b) the structure of fares for those journeys, and

(c) the total distance covered by vehicles used by him in operating those local services.

(3) The operator may be required to provide the information in any form in which, having regard to the manner in which the information is kept, it is reasonable to expect him to provide it.

(4) No information which—

(a) has been provided under this section, or provided together with information so provided, and

(b) relates to the affairs of an individual or to a particular business,

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shall be disclosed during the lifetime of the individual or while the business continues to be carried on.

(5) But subsection (4) does not apply to a disclosure made—

(a) with the consent of the individual or the person for the time being carrying on the business,

(b) in connection with the investigation of crime or for the purposes of criminal proceedings,

(c) for the purposes of civil proceedings brought by virtue of this Act or the [M58]Transport Act 1985, or

(d) in order to comply with the order of a court or tribunal.

(6) A person who discloses information in contravention of subsection (4) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Modifications etc. (not altering text)

C19 S. 143(5)(b): Disclosure powers extended (14.12.2001) by 2001 c. 24, ss. 17, 127(2)(a), **Sch. 4 Pt. I para. 53(1)**

Commencement Information

I139 S. 143 wholly in force at 1.8.2001; s. 143 not in force at Royal Assent see s. 275(1)(2); s. 143 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 143 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 4**

Marginal Citations

M58 1985 c. 67.

[F73]144 Civil penalties for bus lane contraventions.

. . . . . .

Textual Amendments

F73 S. 144 repealed (31.3.2008 for W., 31.5.2022 for E.) by Traffic Management Act 2004 (c. 18), s. 99(1), **Sch. 12 Pt. 1**; S.I. 2007/3174, art. 2, Sch.; S.I. 2022/66, arts. 1(2), 2(2)(d) (with art. 3(4)-(10))

[[F74]Mandatory travel concessions for journeys not beginning on the London bus network]

Textual Amendments

F74 S. 145A substituted for s. 145 (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), **ss. 1**, 15(1); S.I. 2007/2799, arts. 2, 3 (with art. 4)

[F74]145 Mandatory concessions outside Greater London.

. . . . . .

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[F74 145A England: mandatory concessions for journeys not beginning on the London bus network

(1) Any person to whom a current statutory travel concession permit has been issued and who travels on an eligible journey on an eligible service is entitled, on production of the permit, to a concession consisting of a waiver of the fare for the journey by the operator of the service.

(2) In subsection (1) "eligible journey" means a journey on one public service vehicle (in one direction) which—
- (a) is between places in England,
- (b) begins at a relevant time, and
- (c) is not one to which section 242(8) of the Greater London Authority Act 1999 (journeys beginning on the London bus network) applies.

(3) In this section "statutory travel concession permit" means—
- (a) a permit issued pursuant to subsection (4),
- (b) a permit issued by a London authority relating to the travel concession specified in section 242(8) and (8A) of the Greater London Authority Act 1999 (travel concessions on journeys beginning on the London bus network etc), or
- (c) a permit issued by a London authority pursuant to paragraph 4(2) of Schedule 16 to that Act (free travel scheme in Greater London).

(4) A travel concession authority in England other than a London authority must, on an application made to it by any person who appears to the authority to be an elderly or disabled person whose sole or principal residence is in the authority's area, issue to the person free of charge a permit indicating that he is entitled to the concession specified in subsection (1).

(5) A permit issued pursuant to subsection (4) must be issued in such form and for such period—
- (a) as may be specified in regulations made by the Secretary of State, and
- (b) subject to that, as the authority issuing the permit considers appropriate.

(6) The Secretary of State may issue guidance to travel concession authorities in England to which they must have regard in determining for the purposes of subsection (4) whether a person is a disabled person.

(7) Before issuing guidance under subsection (6) the Secretary of State shall consult—
- (a) the Disabled Persons Transport Advisory Committee,
- (b) associations representative of travel concession authorities, and
- (c) such other persons as he thinks fit.

(8) The Secretary of State may issue guidance to travel concession authorities in England to which they must have regard in determining for the purposes of subsection (4) whether a person has his sole or principal residence in an authority's area.

(9) A person entitled to be issued with a statutory travel concession permit by a travel concession authority under subsection (4) may agree with the authority that he is not to be entitled to—
- (a) the concession specified in subsection (1), and
- (b) the concession provided by virtue of section 242(8) of, or paragraph A1 of Schedule 16 to, the Greater London Authority Act 1999,

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for a period in return for being entitled during that period to receive travel concessions under a scheme under section 93 of the Transport Act 1985 to which the authority is a party (if the scheme provides that a person may not receive travel concessions under the scheme unless he so agrees).

(10) The Secretary of State may by regulations make provision about agreements within subsection (9).

(11) The regulations may in particular make provision—
- (a) requiring the serving of notices before an agreement is made,
- (b) about the form of agreements, and
- (c) as to the period for which a person may agree not to be entitled to the concessions mentioned in subsection (9)(a) and (b).**]**

[[F75]145B Wales: mandatory concessions

(1) Any person to whom a current statutory travel concession permit has been issued by a travel concession authority in Wales and who travels on an eligible service on a journey (beginning at any time)—
- (a) between places in the authority's area,
- (b) between a place in the authority's area and a place outside but in the vicinity of that area, or
- (c) between places outside but in the vicinity of that area,

is entitled, on production of the permit, to a concession consisting of a waiver of the fare for the journey by the operator of the service.

(2) And if the permit is in a form approved by the Welsh Ministers for the purpose of this subsection, subsection (1) has effect as if each reference in it to the authority's area were to Wales.

(3) A travel concession authority in Wales must, on an application made to it by any person who appears to the authority to be an elderly or disabled person residing in its area, issue to the person free of charge a permit, in such form and for such period as the authority considers appropriate, indicating that he is entitled to the concession specified in subsection (1).

(4) If it appears to a travel concession authority in Wales issuing a statutory travel concession permit to a disabled person that the person requires the assistance of a companion to travel on journeys on public passenger transport services, the authority must mark that clearly on the permit.

(5) Where a person whose current statutory travel concession permit is marked in accordance with subsection (4) is entitled under this section to waiver of the fare for a journey, one companion travelling on the journey with the person (and nominated by the person as the person's companion for that journey) is also entitled to waiver of the fare for the journey.

(6) The Welsh Ministers may issue guidance to travel concession authorities in Wales to which they must have regard in determining for the purposes of subsection (3) whether a person is a disabled person.

(7) Before issuing guidance under subsection (6) the Welsh Ministers shall consult—
- (a) the Disabled Persons Transport Advisory Committee,

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(b) associations representative of travel concession authorities, and

(c) such other persons as they think fit.

(8) A person entitled to be issued with a statutory travel concession permit by a travel concession authority in Wales may agree with the authority that he is not to be entitled to the concession specified in subsection (1) for a period in return for being entitled during that period to receive travel concessions under a scheme under section 93 of the Transport Act 1985 (if the scheme provides that a person may not receive travel concessions under the scheme unless he so agrees).

(9) The Welsh Ministers may by regulations make provision about agreements within subsection (8).

(10) The regulations may in particular make provision—

(a) requiring the serving of notices before an agreement is made,

(b) about the form of agreements, and

(c) as to the period for which a person may agree not to be entitled to the concession specified in subsection (1).

(11) In this section "statutory travel concession permit" means a permit issued pursuant to subsection (3).**]**

Textual Amendments

F75 S. 145B inserted (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), s. 15(1), **Sch. 2 para. 11**; S.I. 2007/2799, arts. 2, 3 (with art. 4)

146 Mandatory concessions: supplementary.

In this Part—

"disabled person" means a person who—

(a) is blind or partially sighted,

(b) is profoundly or severely deaf,

(c) is without speech,

(d) has a disability, or has suffered an injury, which has a substantial and long-term adverse effect on his ability to walk,

(e) does not have arms or has long-term loss of the use of both arms,

(f) has a learning disability, that is, a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning, or

(g) would, if he applied for the grant of a licence to drive a motor vehicle under Part III of the [M59]Road Traffic Act 1988, have his application refused pursuant to section 92 of that Act (physical fitness) otherwise than on the ground of persistent misuse of drugs or alcohol,

[[F76]"elderly person" means a person who has attained the age of 60 years,**]**

"eligible service" means—

(a) [F77]. . . . . .

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(b) [F77]... a bus service of a class specified in an order made by the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales),

[[F78]"a half-price travel concession", in relation to a journey, means reduction of the fare for the journey to not more than one-half of that applicable to an adult who is not entitled to any reduction,**]**

[[F79]"London authority" means a London borough council or the Common Council of the City of London,**]**

"relevant time" means—

(a) any time on a Saturday or Sunday or on any day which is a bank holiday in England and Wales under the [M60]Banking and Financial Dealings Act 1971, or

(b) a time during the period from 9.30 a.m. to 11 p.m. on any other day, and

"travel concession authority" means—

(a) a non-metropolitan district council in England,

(b) a council of a county in England so far as they are the council for an area for which there are no district councils,

(ba) **[**[F80]a London authority,**]**

(c) a Passenger Transport Executive for a passenger transport area in England, [F81]...

(ca) **[**[F82]the Council of the Isles of Scilly, or**]**

(d) a county council or county borough council in Wales.

Textual Amendments

F76 Words in s. 146 substituted (1.4.2003) by Travel Concessions (Eligibility) Act 2002 (c. 4), **ss. 1(3)**, 2; S.I. 2002/673, art. 2; S.I. 2002/3014, art. 2; S.I. 2002/673, art. 2; S.I. 2002/3014, art. 2

F77 Words in s. 146(1) repealed (1.5.2002 for E. and 14.8.2002 for W.) by 2000 c. 38, s. 274, **Sch. 31 Pt. II**; S.I. 2002/1014, art. 2(1), **Sch. Pt. 1** (with transitional provisions in art. 3); S.I. 2002/2024, **art. 2(b)**

F78 Words in s. 146 omitted (E.) (1.4.2006) by virtue of The Travel Concessions (Extension of Entitlement) (England) Order 2005 (S.I. 2005/3224), arts. 1(3), **3(3)** (with art. 3(5))

F79 Words in s. 146 inserted (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), **ss. 2(2)**, 15(1); S.I. 2007/2799, arts. 2, 3 (with art. 4)

F80 Words in s. 146 inserted (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), **ss. 2(3)(a)**, 15(1); S.I. 2007/2799, arts. 2, 3 (with art. 4)

F81 Word in s. 146 repealed (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), s. 15(1), **Sch. 3**; S.I. 2007/2799, arts. 2, 3 (with art. 4)

F82 Words in s. 146 inserted (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), **ss. 2(3)(b)**, 15(1); S.I. 2007/2799, arts. 2, 3 (with art. 4)

Modifications etc. (not altering text)

C20 S. 146: power to amend conferred (1.4.2003) by Travel Concessions (Eligibility) Act 2002 (c. 4), **ss. 1(4)**, 2; S.I. 2002/673, art. 2; S.I. 2002/3014, art. 2; S.I. 2002/673, art. 2; S.I. 2002/3014, art. 2

C21 S. 146 definition extended (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), s. 15(1), **Sch. 2 para. 12**; S.I. 2007/2799, arts. 2, 3 (with art. 4)

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Commencement Information

I140 S. 146 wholly in force at 1.8.2001; s. 146 not in force at Royal Assent see s. 275(1)(2); s. 146 in force (E.) (1.1.2001 and 1.2.2001 for specified purposes otherwise 1.6.2001) by S.I. 2000/3229, art. 2, Sch. Pts. I, **IV**; s. 146 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 6**

Marginal Citations

M59 1988 c. 52.

M60 1971 c. 80.

147 [[F83]Wales: variation of mandatory concessions]

[[F84]The Welsh Ministers may by order amend either or both of sections 145B and 146 for or in connection with securing that section 145B(1)**]**—

(a) applies to any person for the time being eligible to receive travel concessions under a scheme under section 93 of the [M61]Transport Act 1985 or to any such person of a specified description (as well as to any elderly person and any disabled person),

(b) applies to travel on any public passenger transport service or to travel on any such service of a specified description (as well as to travel on an eligible service),

(c) applies to a journey between a place in a travel concession authority's area and a place outside but in the vicinity of that area or to a journey between places outside but in the vicinity of that area (as well as to a journey between places in that area),

(d) provides for the reduction of fares to less than one-half of those applicable to adults who are not entitled to any reduction or for waiver of fares, or

(e) applies, or does not apply, to a journey beginning at a specified time.

Textual Amendments

F83 S. 147 heading substituted (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), s. 15(1), **Sch. 2 para. 13(3)**; S.I. 2007/2799, arts. 2, 3 (with art. 4)

F84 Words in s. 147 substituted (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), s. 15(1), **Sch. 2 para. 13(2)**; S.I. 2007/2799, arts. 2, 3 (with art. 4)

Modifications etc. (not altering text)

C22 S. 147 modified (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), s. 15(1)**(3)**; S.I. 2007/2799, arts. 2, 3 (with art. 4)

Commencement Information

I141 S. 147 wholly in force at 1.8.2001; s. 147 not in force at Royal Assent see s. 275(1)(2); s. 147 in force (E.) (1.6.2001) by S.I. 2000/3229, art. 2, **Sch. Pt. IV**; s. 147 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 6**

Marginal Citations

M61 1985 c. 67.

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148 Enforcement.

(1) An operator commits an offence if he systematically fails to comply with the obligation under section **[**[F85]145A(1) or 145B(1)**]** during any period.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Proceedings for an offence under this section shall not be instituted except—

(a) by a travel concession authority, or

(b) by or with the consent of the Director of Public Prosecutions;

and any authority who would not otherwise have power to bring such proceedings shall accordingly have that power.

Textual Amendments

F85 Words in s. 148(1) substituted (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), s. 15(1), **Sch. 2 para. 14**; S.I. 2007/2799, arts. 2, 3 (with art. 4)

Commencement Information

I142 S. 148 wholly in force at 1.8.2001; s. 148 not in force at Royal Assent see s. 275(1)(2); s. 148 in force (E.)(1.6.2001) by S.I. 2000/3229, art. 2, **Sch. Pt. IV**; s. 148 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 6**

149 Reimbursement of operators.

[[F86](1) Where—

(a) an operator provides concessions under section 145A(1) in respect of eligible journeys beginning in the area of a travel concession authority in England, or

(b) an operator provides concessions under section 145B(1) for persons who reside in the area of a travel concession authority in Wales,

the authority shall reimburse the operator for providing the concessions.**]**

(2) Subject to regulations under subsection (3), the arrangements with respect to reimbursement shall be—

(a) [F87]such as the travel concession authority may agree with the operators who provide concessions ...

[[F87](i) in respect of eligible journeys beginning in the authority's area (if the authority is in England), or

(ii) for persons who reside in the authority's area (if the authority is in Wales), or**]**

(b) in the absence of agreement, such as may be determined by the authority (being the same in the case of all of those operators) not later than 28 days before the date on which the arrangements, or any variations of the arrangements, are to come into operation.

(3) The Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may by regulations make provision—

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(a) with respect to the determination by travel concession authorities of the amounts to be paid to individual operators, or to any class of operators, by way of reimbursement,

(b) as to the manner of making any payments due to operators by way of reimbursement, and

(c) about the terms on which, and the extent to which, travel concession authorities may employ any person as their agent for the purpose of making payments due to operators by way of reimbursement and the descriptions of persons who may be so employed.

Textual Amendments

F86 S. 149(1) substituted (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), **ss. 3(2)**, 15(1); S.I. 2007/2799, arts. 2, 3 (with art. 4)

F87 S. 149(2)(a)(i)(ii) substituted (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), **ss. 3(3)**, 15(1); S.I. 2007/2799, arts. 2, 3 (with art. 4)

Commencement Information

I143 S. 149 wholly in force at 1.8.2001; s. 149 not in force at Royal Assent see s. 275(1)(2); s. 149(1)(2) in force (E.) (1.1.2001 for specified purposes otherwise 1.6.2001), s. 149(3) in force (E.)(1.1.2001) by S.I. 2000/3229, art. 2, Sch. Pts. I, **IV**; s. 149 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 6**

150 Procedure for reimbursement arrangements determined by authority.

(1) At least four months before the coming into operation of, or of any variations of, any arrangements with respect to reimbursement determined by a travel concession authority in accordance with section 149(2)(b), the authority shall publish the proposed arrangements, or the proposed variations, in such manner as they consider appropriate.

(2) Following publication—

(a) copies of the published material shall be made available at the principal office of the authority,

(b) a copy of it shall be supplied to every operator of local services who would, in the opinion of the authority, be affected by the proposals, and

(c) a copy of it shall be supplied to any person on request (whether at the principal office or by post), either free of charge or at a charge representing no more than the cost of providing the copy.

(3) An operator who considers that he may be prejudicially affected by the proposals may apply to—

(a) the Secretary of State (in the case of arrangements determined by a travel concession authority in England), or

(b) the National Assembly of Wales (in the case of arrangements determined by such an authority in Wales),

for a modification of the proposed arrangements, or proposed variations, on the grounds that there are special reasons why they would be inappropriate with respect to one or more local services provided by him.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

(4) An application under **[**[F88]subsection (3)(a)**]** shall be made by notice in writing given not later than **[**[F89]56 days**]** after the date on which the arrangements, or the variations, come into operation.

[[F90](4A) An application under subsection (3)(b) shall be made by notice in writing given not later than 28 days after the date on which the arrangements, or the variations, come into operation.**]**

(5) An application under subsection (3) may not be made unless the applicant has previously given notice in writing of his intention to make the application to the travel concession authority by which the arrangements, or varied arrangements, are being, or have been, determined.

(6) The Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales)—

(a) may make regulations as to the form and content of notices under this section and the manner in which they are to be given,

(b) may appoint a person to determine an application under subsection (3) on his or its behalf, and

(c) may by regulations make provision as to the procedure to be followed in connection with applications under subsection (3).

(7) Regulations made under subsection (6)(c) may in particular make provision—

(a) as to the conduct of any proceedings held in connection with applications under subsection (3), and

(b) for applicants or travel concession authorities, or both, to make payments towards the expenses incurred in connection with the determination of such applications.

(8) On an application under subsection (3) the Secretary of State or the National Assembly for Wales, or (if a person is appointed under subsection (6)(b) to determine the application) the person so appointed, may direct—

(a) that the arrangements, or varied arrangements, are to have effect with such modifications as are specified in the direction from the time so specified, and

(b) that the authority shall make a payment of an amount specified in the direction to the applicant.

Textual Amendments

F88 Words in s. 150(4) substituted (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), **ss. 3(5)(a)**, 15(1); S.I. 2007/2799, arts. 2, 3 (with art. 4)

F89 Words in s. 150(4) substituted (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), **ss. 3(5)(b)**, 15(1); S.I. 2007/2799, arts. 2, 3 (with art. 4)

F90 S. 150(4A) inserted (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), **ss. 3(6)**, 15(1); S.I. 2007/2799, arts. 2, 3 (with art. 4)

Commencement Information

I144 S. 150 wholly in force at 1.8.2001; s. 150 not in force at Royal Assent see s. 275(1)(2); s. 150 in force (E.)(1.1.2001) by S.I. 2000/3229, art. 2, **Sch. Pt. I**; s. 150 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 6**

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Travel concessions in Greater London

151 Concessions in Greater London.

(1) Chapter VIII of Part IV of the [M62]Greater London Authority Act 1999 (travel concessions on journeys in and around Greater London) has effect subject to the following amendments.

(2) Section 240 (travel concessions on journeys in and around Greater London) is amended as follows.

(3) In subsections (1) and (2), for "any persons eligible to receive them in accordance with subsection (5) below" substitute " such of the persons eligible to receive them in accordance with subsection (5) below as are specified in the arrangements ".

(4) In subsection (5), for "are persons, or any description of persons," substitute " by an authority are persons appearing to the authority to be persons " and for paragraphs (b) and (c) substitute—

"(b) who are blind;

(c) who are partially sighted;

(d) who are profoundly or severely deaf;

(e) who are without speech;

(f) who have a disability, or have suffered an injury, which has a substantial and long-term adverse effect on their ability to walk;

(g) who do not have arms or have long-term loss of the use of both arms;

(h) who have a learning disability, that is, a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning; or

(i) who, if they applied for the grant of a licence to drive a motor vehicle under Part III of the [M63]Road Traffic Act 1988, would have their applications refused pursuant to section 92 of that Act (physical fitness) otherwise than on the ground of persistent misuse of drugs or alcohol."

(5) After that subsection insert—

"(5A) The Secretary of State may issue guidance to local authorities to which they must have regard in determining whether a person falls within subsection (5) (b) to (i) above.

(5B) Before issuing guidance under subsection (5A) above the Secretary of State shall consult—

(a) the Disabled Persons Transport Advisory Committee;

(b) associations representative of local authorities; and

(c) such other persons as he thinks fit."

(6) In section 241(1) (reserve free travel scheme), after "provided for" insert " all ".

(7) Section 242 (requirements as to scope of concessions which must be given if free travel scheme is not to have effect) is amended as follows.

(8) In subsection (1), after "provide" insert " (a) " and insert at the end "; and

(b) for the travel concessions granted to them to include the concession specified in subsection (8) below."

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(9) In subsection (2), for "Those journeys" substitute " The journeys referred to in subsection (1)(a) above ".

(10) In subsection (5), for "The requirements of this section as to scope do" substitute " Subsection (1)(a) above does ".

(11) In subsection (7), for "the categories of such residents mentioned in paragraphs (a), (b) and (c)" substitute " a category specified in any one of the paragraphs ".

[F91](12) . . . . . .

(13) In section 243 (requirements as to uniformity), after subsection (5) insert—

"(6) No charge may be made for the issue to an eligible London resident of a travel concession permit relating to the travel concession specified in section 242(8) above."

Textual Amendments

F91 S. 151(12) repealed (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), s. 15(1), **Sch. 3**; S.I. 2007/2799, arts. 2, 3 (with art. 4)

Commencement Information

I145 S. 151 partly in force; s. 151 not in force at Royal Assent see s. 275; s. 151 in force (1.4.2001) by S.I. 2000/3229, art. 2, **Sch. Pt. III**

Marginal Citations

M62 1999 c. 29.
M63 1988 c. 52.

Financial and competition provisions

152 Agreements providing for service subsidies.

(1) Part V of the [M64]Transport Act 1985 (expenditure on public passenger transport services) is amended as follows.

(2) In section 89 (obligation to invite tenders for subsidised services), for subsections (7) and (8) substitute—

"(7) An authority issuing an invitation to tender under this section shall, in determining whether to accept a tender submitted in response to the invitation or which (if any) of several such tenders to accept, have regard in particular to—

(a) a combination of economy, efficiency and effectiveness;
(b) the implementation of the policies set out in the appropriate bus strategy; and
(c) the reduction or limitation of traffic congestion, noise or air pollution.

(8) In subsection (7)(b) above "the appropriate bus strategy" means—

(a) in the case of a local transport authority (within the meaning of section 108(4) of the Transport Act 2000), their bus strategy;

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(b) in the case of a district council which is not such an authority, the bus strategy of the council for the county in which the district is situated; and

(c) in the case of a Passenger Transport Executive for a passenger transport area, the bus strategy made jointly by the Passenger Transport Authority for the area and the councils for the metropolitan districts comprised in the area."

(3) In section 90(3) (duty of authority to publish reasons for considering that payment of subsidies to secure service in accordance with accepted tender is conducive to achieving most effective and economic application of funds), for the words from "is conducive" to the end substitute " accords with section 89(7) of this Act. "

(4) In section 92(1) (authorities subsidising public passenger transport services not to inhibit competition between persons providing or seeking to provide such services in their area), for the words from "so conduct" to the end substitute " have regard to the interests of the public and of persons providing public passenger transport services in their area. "

Commencement Information

I146 S. 152 wholly in force at 1.8.2001; s. 152 not in force at Royal Assent see s. 275(1)(2); s. 152 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 152 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 7**

Marginal Citations

M64 1985 c. 67.

153 Competition test for exercise of bus functions.

Schedule 10 contains provision applying a competition test in relation to the exercise of functions relating to quality partnership schemes, ticketing schemes and subsidised local services.

Commencement Information

I147 S. 153 partly in force; s. 153 not in force at Royal Assent see s. 275(1)(2); s. 153 in force for specified purposes (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 153 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 8**; s. 153 in force in so far as it is not already in force (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

154 Grants to bus service operators.

(1) The Secretary of State with the approval of the Treasury (as respects England) or the National Assembly for Wales (as respects Wales) may make grants to operators of eligible bus services towards their costs in operating those services.

(2) The Secretary of State with the approval of the Treasury (as respects England) or the National Assembly for Wales (as respects Wales) may make provision by regulations as to the method of calculation of grants.

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(3) Subject to the provisions of any such regulations, grants under this section shall be of such amount and subject to such conditions (including conditions requiring their repayment in specified circumstances) as may be determined by—

(a) the Secretary of State with the approval of the Treasury (as respects England), or

(b) the National Assembly for Wales (as respects Wales).

(4) A determination under subsection (3) may be made either generally or in relation to particular cases or classes of case.

(5) In this section "eligible bus services" means bus services of a class (or using vehicles of a class) prescribed by regulations made by the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales).

(6) Section 92 of the [M65]Finance Act 1965 (grants towards duty charged on bus fuel) and section 111 of the [M66]Transport Act 1985 (unregistered and unreliable local services: reduction of fuel duty grant) cease to have effect.

Commencement Information

I148 S. 154 wholly in force at 14.8.2002; s. 154 not in force at Royal Assent see s. 275(1)(2); s. 154(1)-(5) in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. 1** (subject to the savings in Sch. 3 Pt. 2); s. 154(1)-(5) in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 9**; s. 154(6) in force (E.) at 1.5.2002 by S.I. 2002/1014, art. 2, **Sch. Pt. 1** (with transitional provisions in art. 3); s. 154(6) in force (W.) at 14.8.2002 by S.I. 2002/2024, **art. 2(a)**

Marginal Citations

M65 1965 c. 25.

M66 1985 c. 67.

155 Penalties.

(1) Where the traffic commissioner for any traffic area is satisfied that the operator of a local service has, without reasonable excuse—

(a) failed to operate a local service registered under section 6 of the [M67]Transport Act 1985,

(b) operated a local service in contravention of that section or section 118(4) or 129(1)(b) of this Act, or

(c) failed to comply with section 138 or 140(3) of this Act,

he may impose a penalty on the operator.

(2) The amount of the penalty shall be such amount as the traffic commissioner thinks fit in all the circumstances of the case, not exceeding the amount determined in accordance with subsection (3).

(3) That amount is—

(a) £550, or

(b) such other amount as the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may by order specify,

multiplied by the total number of vehicles which the operator is licensed to use under all the PSV operator's licences held by him.

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(4) The penalty is payable to the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales).

(5) After imposing the penalty, the traffic commissioner must at once give notice in writing to—
  (a) the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales), and
  (b) the operator.

(6) The operator may appeal to the Transport Tribunal against the imposition of the penalty.

(7) An amount due under this section is recoverable as a civil debt.

Commencement Information

I149 S. 155 wholly in force at 1.5.2002; s. 155 not in force at Royal Assent see s. 275(1)(2); s. 155 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 10**; s. 155 in force (E.) at 1.5.2002 by S.I. 2002/1014, art. 2, **Sch. Pt. 1** (with transitional provisions in art. 3)

Marginal Citations

M67 1985 c. 67.

156 Non-metropolitan transport grants.

(1) The Secretary of State with the approval of the Treasury (as respects England) or the National Assembly for Wales (as respects Wales) may make grants to non-metropolitan transport authorities for the purpose of—
  (a) securing the establishment, continuance or improvement of any public passenger transport service which in his or its opinion is or will be for the benefit of persons residing in their area, or
  (b) securing the provision of new facilities for, or new services ancillary to, any such service which in his or its opinion are or will be for the benefit of such persons.

(2) Grants under this section shall be of such amount and subject to such conditions (including conditions requiring their repayment in specified circumstances) as may be determined by—
  (a) the Secretary of State with the approval of the Treasury (as respects England), or
  (b) the National Assembly for Wales (as respects Wales).

(3) A determination under subsection (2) may be made either generally or in relation to particular cases or classes of case.

(4) In this section "non-metropolitan transport authority" means—
  (a) a county council in England,
  (b) a council of a non-metropolitan district in England comprised in an area for which there is no county council, or
  (c) a county council or county borough council in Wales.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
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Commencement Information

I150 S. 156 wholly in force at 1.8.2001; s. 156 not in force at Royal Assent see s. 275(1)(2); s. 156 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 156 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 10**

157 Grants to Passenger Transport Authorities.

(1) The Secretary of State may, with the approval of the Treasury, make grants to the Passenger Transport Authority for a passenger transport area in England for the purpose of enabling the Authority, or the Passenger Transport Executive for the area, to carry out any of their functions.

(2) Grants under this section shall be of such amount and subject to such conditions (including conditions requiring their repayment in specified circumstances) as the Secretary of State may, with the approval of the Treasury, determine.

(3) A determination under subsection (2) may be made either generally or in relation to particular cases or classes of case.

Commencement Information

I151 S. 157 wholly in force at 1.8.2001; s. 157 not in force at Royal Assent see s. 275(1)(2); s. 157 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 157 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 10**

158 Repayment of grants towards bus fuel duty.

(1) Section 111 of the [M68]Transport Act 1985 (unregistered and unreliable local services: requirement to repay twenty per cent. of bus fuel duty grants) is amended as follows (until it ceases to have effect as a result of section 154(6)).

(2) For subsections (2) to (4) substitute—

"(2) If any amount has been paid to the operator by way of grant under section 92 of the [M69]Finance Act 1965 (grants towards duty charged on bus fuel) in respect of any services operated during the period of three months ending with the day on which the determination under subsection (1) above is made, there is due from the operator—

(a) to the Secretary of State (as respects England); or

(b) to the National Assembly for Wales (as respects Wales),

such percentage of that amount as the traffic commissioner thinks fit in all the circumstances of the case.

(3) The percentage determined shall be at least one per cent. but not more than twenty per cent.

(4) A traffic commissioner who makes a determination under this section shall at once give notice in writing to—

(a) the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales); and

(b) the operator;

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and the operator may appeal to the Transport Tribunal against the determination."

(3) In subsection (5), omit—

(a) "to the Secretary of State", and

(b) the words from "and any amount" to the end.

Commencement Information

I152 S. 158 wholly in force at 1.8.2001; s. 158 not in force at Royal Assent see s. 275(1)(2); s. 158 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 158 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 10**

Marginal Citations

M68 1985 c. 67.

M69 1965 c. 25.

159 Abolition of financial plans of Passenger Transport Executives.

Sections 3 to 5 of the [M70]Transport Act 1983 (duty of Passenger Transport Executives to prepare three-year financial plans and determination of revenue grants) shall cease to have effect.

Commencement Information

I153 S. 159 wholly in force at 1.8.2001; s. 159 not in force at Royal Assent see s. 275(1)(2); s. 159 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 159 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 10**

Marginal Citations

M70 1983 c. 10.

Supplementary

160 Part II: regulations and orders.

(1) Any power to make regulations or orders under this Part—

(a) is exercisable by statutory instrument,

(b) includes power to make different provision for different cases, and

(c) may be exercised so as to make incidental, consequential, supplementary or transitional provision or savings.

(2) A statutory instrument containing regulations or an order made by a Minister of the Crown under this Part (whether alone or jointly with the National Assembly for Wales) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[[F92](3) A statutory instrument containing an order under section 155(1A)(d) shall not be made—

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(a) as respects England, unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament;

(b) as respects Wales, unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.**]**

Textual Amendments

F92 S. 160(3) inserted (26.11.2008 for specified purposes, 9.2.2009 for E. in so far as not already in force, 1.4.2009 for W. in so far as not already in force) by Local Transport Act 2008 (c. 26), **ss. 64(14)**, 134(1)(c)(4); S.I. 2009/107, art. 2(2), Sch. 2 Pt. 1 (with Sch. 2 para. 4); S.I. 2009/579, art. 2(e) (with Sch. para. 2)

Commencement Information

I154 S. 160 wholly in force at 1.8.2001; s. 160 not in force at Royal Assent see s. 275(1)(2); s. 160 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 160 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 10**

161 Part II: minor and consequential amendments.

Schedule 11 makes minor and consequential amendments relating to this Part.

Commencement Information

I155 S. 161 partly in force; s. 161 not in force at Royal Assent see s. 275(1)(2); s. 161 in force (1.4.2001 and 1.6.2001 for specified purposes) by S.I. 2000/3229, art. 2, Sch. Pts. III, **IV**; s. 161 in force for further specified purposes (E.) (1.2.2001) by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 161 in force for further specified purposes (E.) (20.2.2001) by S.I. 2001/242, **art. 2**; s. 161 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 11**; s. 161 in force for specified purposes (W.) at 1.4.2002 by S.I. 2001/2788, art. 3, **Sch. 2 para. 2**; s. 161 in force for further specified purposes (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**

162 Interpretation of Part II.

(1) In this Part—

"appropriate national authority", in relation to a quality partnership scheme, a quality contracts scheme or a ticketing scheme, means—

(a) the Secretary of State, as respects a scheme relating to an area in England,

(b) the National Assembly for Wales, as respects a scheme relating to an area in Wales, or

(c) the Secretary of State and the National Assembly for Wales acting jointly, as respects a scheme relating to an area in England and Wales,

"bus services" has the meaning given in section 110(5),

"community bus permit" means a permit under section 22 of the [M71]Transport Act 1985,

"connecting rail or tram service" has the meaning given in section 135(5),

"disabled person" has the meaning given in section 146,

"elderly person" has the meaning given in section 146,

"eligible service" has the meaning given in section 146,

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[[F93]"half-price travel concession" has the meaning given in section 146,**]**

"local transport authority" has the meaning given in section 108(4),

[[F94]"London authority" has the meaning given in section 146,**]**

"London transport authority" means the Greater London Authority, a London borough council or the Common Council of the City of London,

"quality contract" has the meaning given in section 124(4),

"quality contracts scheme" is to be construed in accordance with section 124(3),

"quality partnership scheme" is to be construed in accordance with section 114(2),

"railway" and "tramway" have the meanings given in section 67(1) of the [M72]Transport and Works Act 1992,

"relevant time" has the meaning given in section 146,

"ticketing scheme" is to be construed in accordance with section 135(3),

"traffic regulation order" means an order under the [M73]Road Traffic Regulation Act 1984 or any other enactment (other than this Act) regulating the use of roads or other places by public service vehicles, and

"travel concession authority" has the meaning given in section 146.

(2) In this Part the expressions listed below have the same meaning as in the [M74]Public Passenger Vehicles Act 1981—

"fares",

"modification",

"public service vehicle",

"PSV operator's licence",

"road", and

"traffic commissioner".

(3) In this Part the expressions listed below have the same meaning as in the [M75]Transport Act 1985—

"local service",

"public passenger transport services",

"stopping place", and

"traffic area".

(4) Where a reference to an authority in any of the following provisions is to a Passenger Transport Authority, it is to be construed as a reference to the Passenger Transport Executive for the passenger transport area concerned; and where a reference to authorities in any of those provisions is to one or more Passenger Transport Authorities, it is to be construed as a reference to the Passenger Transport Executive or Executives for the passenger transport area or areas concerned—

section 114(2)(a),

section 116(2)(a) and (4)(a),

section 118(1) and (2),

section 124(4)(a), (5) and (7),

section 129(4),

section 130,

section 131,

section 139(5), and

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
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section 140.

(5) References in this Part to Passenger Transport Authorities and Executives and to passenger transport areas are references respectively to the Passenger Transport Authorities and Executives, and to passenger transport areas, for the purposes of Part II of the [M76]Transport Act 1968.

(6) References in this Part to the local transport plan or bus strategy of a Passenger Transport Authority for a passenger transport area are to the local transport plan or bus strategy made jointly by the Passenger Transport Authority and the councils for the metropolitan districts comprised in the area.

(7) References in this Part to the operator of a passenger transport service of any description are to be construed in accordance with section 137(7) of the [M77]Transport Act 1985.

Textual Amendments

F93 Words in s. 162(1) omitted (E.) (1.4.2006) by virtue of The Travel Concessions (Extension of Entitlement) (England) Order 2005 (S.I. 2005/3224), arts. 1(3), **3(4)** (with art. 3(5))

F94 Words in s. 162(1) inserted (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), s. 15(1), **Sch. 2 para. 15(b)**; S.I. 2007/2799, arts. 2, 3 (with art. 4)

Modifications etc. (not altering text)

C23 S. 162 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), art. 1, **Sch. 2 para. 9** (with art. 7(4))

C24 S. 162(1) definition extended (17.10.2007 for specified purposes, 1.4.2008 in so far as not already in force) by Concessionary Bus Travel Act 2007 (c. 13), s. 15(1), **Sch. 2 para. 15(a)**; S.I. 2007/2799, arts. 2, 3 (with art. 4)

Commencement Information

I156 S. 162 wholly in force at 1.8.2001; s. 162 not in force at Royal Assent see s. 275(1)(2); s. 162(1) in force (E.) (1.2.2001 and 1.2.2001) for specified purposes; s. 162(2) in force (E.) (1.6.2001) for specified purposes; s. 162(3) in force (E.) (1.1.2001 and 1.6.2001) for specified purposes; s. 162(5) in force (E.) (1.1.2001) by S.I. 2000/3229, art. 2, Sch. Pts. I, II, **IV**; s. 162 in force (E.) (1.2.2001) except in so far as it is brought into force by S.I. 2000/3229 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 162 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 12**

Marginal Citations

M71 1985 c. 67.
M72 1992 c. 42.
M73 1984 c. 27.
M74 1981 c. 14.
M75 1985 c. 67.
M76 1968 c. 73.
M77 1985 c. 67.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
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PART III

ROAD USER CHARGING AND WORKPLACE PARKING LEVY

CHAPTER I

ROAD USER CHARGING

Charging schemes

163 Preliminary.

(1) In this Part "ch.arging scheme" means a scheme for imposing charges in respect of the use or keeping of motor vehicles on roads.

(2) Charges imposed in respect of any motor vehicle by a charging scheme under this Part shall be paid—
- (a) by the registered keeper of the motor vehicle, or
- (b) in circumstances specified in regulations made by the appropriate national authority, by such person as is so specified.

(3) A charging scheme may be made—
- (a) by a non-metropolitan local traffic authority ("a local charging scheme"),
- (b) jointly by more than one non-metropolitan local traffic authority ("a joint local charging scheme"),
- (c) jointly by one or more non-metropolitan local traffic authorities and one or more London traffic authorities ("a joint local-London charging scheme"), or
- (d) by the Secretary of State or the National Assembly for Wales ("a trunk road charging scheme").

(4) In this Part references to a non-metropolitan local traffic authority are to a local traffic authority for an area outside Greater London.

(5) In this Part—
- (a) "the charging authority", in relation to a charging scheme under this Part made or proposed to be made by one authority, means the authority by which the charging scheme is or is proposed to be made, and
- (b) "the charging authorities", in relation to a charging scheme under this Part made or proposed to be made jointly by more than one authority, means the authorities by which the charging scheme is or is proposed to be made.

(6) The power to make joint local-London charging schemes conferred by this Part does not limit any of the powers in Schedule 23 to the [M78]Greater London Authority Act 1999 (road user charging in Greater London).

Commencement Information

I157 S. 163 partly in force; s. 163 not in force at Royal Assent see s. 275(1)(2); s. 163 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 163(2)(b) wholly in force and s. 163(1)(2)(a)(c)(d)(5)(6) in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, Sch. 1 paras. 13, **14**

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Marginal Citations

M78 1999 c. 29.

164 Local charging schemes.

(1) A local charging scheme may only be made in respect of roads for which the charging authority are the traffic authority.

(2) A local charging scheme may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of policies in the charging authority's local transport plan.

Modifications etc. (not altering text)

C25 S. 164 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), art. 1, **Sch. 2 para. 10** (with art. 7(4))

Commencement Information

I158 S. 164 partly in force; s. 164 not in force at Royal Assent see s. 275(1)(2); s. 164 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 164 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 14**

165 Joint local charging schemes.

(1) A joint local charging scheme may only be made in respect of roads for which any of the charging authorities are the traffic authority.

(2) A joint local charging scheme may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of policies in the charging authorities' local transport plans.

Modifications etc. (not altering text)

C26 S. 165 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), art. 1, **Sch. 2 para. 11** (with art. 7(4))

Commencement Information

I159 S. 165 partly in force; s. 165 not in force at Royal Assent see s. 275(1)(2); s. 165 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 165 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 14**

166 Joint local-London charging schemes.

(1) A joint local-London charging scheme may only be made in respect of—

(a) roads for which the non-metropolitan local traffic authority, or any of the non-metropolitan local traffic authorities, by which it is made are the traffic authority, and

(b) roads in respect of which the London traffic authority, or any of the London traffic authorities, by which it is made may impose charges by a scheme under

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Schedule 23 to the [M79]Greater London Authority Act 1999 without the consent of the Secretary of State.

(2) A joint local-London charging scheme may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of—

(a) policies in the local transport plan of the non-metropolitan local traffic authority, or the local transport plans of the non-metropolitan local traffic authorities, by which it is made, and

(b) policies and proposals set out in the transport strategy prepared and published by the Mayor of London under section 142 of the [M80]Greater London Authority Act 1999.

Modifications etc. (not altering text)

C27 S. 166 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), art. 1, **Sch. 2 para. 12** (with art. 7(4))

Commencement Information

I160 S. 166 partly in force; s. 166 not in force at Royal Assent see s. 275(1)(2); s. 166 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II)

Marginal Citations

M79 1999 c. 29.

M80 1999 c. 29.

167 Trunk road charging schemes.

(1) A trunk road charging scheme may only be made—

(a) by the Secretary of State in respect of roads for which he is the traffic authority, or

(b) by the National Assembly for Wales in respect of roads for which it is the traffic authority.

(2) A trunk road charging scheme may only be made in respect of a road if—

(a) the road is carried by a bridge, or passes through a tunnel, of at least 600 metres in length, or

(b) a local traffic authority or Transport for London has requested the charging authority to make the trunk road charging scheme in connection with a charging scheme under this Part, or a scheme under Schedule 23 to the [M81]Greater London Authority Act 1999, made or proposed by them.

Commencement Information

I161 S. 167 partly in force; s. 167 not in force at Royal Assent see s. 275(1)(2); s. 167 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 167 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 14**

Marginal Citations

M81 1999 c. 29.

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Making of charging schemes

168 Charging schemes to be made by order.

(1) A charging scheme under this Part is made by order of the charging authority or of the charging authorities (acting jointly).

(2) The charging authority or the charging authorities (acting jointly) may by order vary a charging scheme under this Part and the charging authority or any of the charging authorities may by order revoke such a scheme; but where a trunk road charging scheme is made at the request of a local traffic authority or Transport for London, it shall not be varied or revoked unless the local traffic authority, or Transport for London, have been consulted about its variation or revocation.

(3) The appropriate national authority may make regulations about orders making, varying or revoking charging schemes under this Part, including (in particular)—
   (a) provision specifying the form of orders,
   (b) provision about the publication of proposals for orders making or varying such charging schemes and the making and consideration of objections to such proposals, and
   (c) provision about the publication of notice of orders and of their effect.

(4) Before making regulations under subsection (3) which relate to joint local-London charging schemes the Secretary of State shall consult the Greater London Authority about the regulations so far as they so relate.

Commencement Information

I162 S. 168 partly in force; s. 168 not in force at Royal Assent see s. 275(1)(2); s. 168 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 168(3) in force and s. 168(1)(2)(4) in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, Sch. 1 paras. 13, **14**

169 Confirmation of charging schemes.

(1) A charging scheme under this Part, other than a trunk road charging scheme, shall not come into force unless the order making it has been submitted to and confirmed by the appropriate national authority; and a variation of such a charging scheme shall not take effect until the order making the variation has been so submitted and confirmed.

(2) Subsection (1) does not apply in such circumstances as may be specified in or determined in accordance with regulations made by the appropriate national authority.

(3) A joint local-London charging scheme shall not come into force unless the order making it has been submitted to and confirmed by the Greater London Authority; and a variation or revocation of such a charging scheme shall not take effect until the order making the variation or revocation has been so submitted and confirmed.

(4) Where confirmation of an order is required by this section, the order may be confirmed with or without modifications.

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(5) Where confirmation by both the Secretary of State and the Greater London Authority of an order making a joint local-London charging scheme, or a variation of such a charging scheme, is required by this section—

(a) the order shall not be submitted to the Secretary of State until it has been confirmed by the Greater London Authority,

(b) if the order has been confirmed by the Greater London Authority with modifications it is the modified order that must be submitted to the Secretary of State, and

(c) the order may not be confirmed with modifications by the Secretary of State until the modifications have been confirmed by the Greater London Authority.

Commencement Information

I163 S. 169 partly in force; s. 169 not in force at Royal Assent see s. 275(1)(2); s. 169 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 169 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 14**

170 Charging schemes: consultation and inquiries.

(1) The charging authority or the charging authorities (acting jointly) may at any time before an order making, varying or revoking a charging scheme under this Part is made, consult other persons about the charging scheme, variation or revocation.

(2) The charging authority or the charging authorities (acting jointly)—

(a) may cause an inquiry to be held in relation to a charging scheme under this Part, or the variation or revocation of such a scheme, and

(b) may appoint the person or persons by whom such an inquiry is to be held.

(3) The appropriate national authority may at any time—

(a) before an order making or varying a charging scheme under this Part (other than a trunk road charging scheme) is made, or

(b) (where such an order has to be confirmed) before it is confirmed,

consult other persons, or require the charging authority or authorities to consult other persons, about the charging scheme or variation.

(4) The appropriate national authority—

(a) may cause an inquiry to be held in relation to a charging scheme under this Part (other than a trunk road charging scheme) or the variation of such a scheme, and

(b) may appoint the person or persons by whom such an inquiry is to be held.

(5) In the case of a joint local-London charging scheme—

(a) the Greater London Authority may, at any time before an order making, varying or revoking the charging scheme is confirmed by that Authority, consult other persons, or require the charging authorities to consult other persons, about the charging scheme, variation or revocation, and

(b) the Secretary of State shall not cause an inquiry to be held in relation to the charging scheme, or the variation of the charging scheme, or appoint the person or persons by whom such an inquiry is to be held, without the consent of the Greater London Authority.

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(6) Subsections (2) and (3) of section 250 of the [M82]Local Government Act 1972 (witnesses at local inquiries) apply in relation to any inquiry held by virtue of this section.

(7) Where an inquiry is held by virtue of this section in relation to a charging scheme, or the variation or revocation of such a scheme, the costs of the inquiry shall be paid—

(a) in the case of a trunk road charging scheme made by virtue of section 167(2)(b), by the local traffic authority which requested the making of the scheme (or Transport for London, if it did), and

(b) in any other case, by the charging authority or authorities;

and the parties at the inquiry shall bear their own costs.

Commencement Information

I164 S. 170 partly in force; s. 170 not in force at Royal Assent see s. 275(1)(2); s. 170 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 170 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 14**

Marginal Citations

M82 1972 c. 70.

Contents of charging schemes

171 Matters to be dealt with in charging schemes.

(1) A charging scheme under this Part must—

(a) designate the roads in respect of which charges are imposed,

(b) specify or describe the events by reference to the happening of which a charge is imposed in respect of a motor vehicle being used or kept on a road,

(c) specify the classes of motor vehicles in respect of which charges are imposed,

(d) specify the charges imposed, and

(e) state whether or not the charging scheme is to remain in force indefinitely and, if it is not to remain in force indefinitely, the period for which it is to remain in force.

(2) Subject to sections 164 to 167 and to any modifications made by virtue of section 169, the designation of the roads in respect of which charges are imposed by a charging scheme under this Part shall be such as the charging authority or authorities may determine.

(3) Any charge imposed by a charging scheme under this Part in respect of the keeping of a motor vehicle on a road must also have effect in respect of the use of the motor vehicle on that road.

(4) A charging scheme under this Part may make provision in relation to the manner in which charges are to be made, collected, recorded and paid.

(5) The charges that may be imposed by a charging scheme under this Part include different charges (which may be no charge) for different cases, including (in particular)—

(a) different days,

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(b) different times of day,
(c) different roads,
(d) different distances travelled, and
(e) different classes of motor vehicles.

(6) In setting the charges imposed by a charging scheme under this Part, regard may be had to the purposes for which any of the net proceeds of the charging scheme may be applied (in accordance with Schedule 12).

(7) A charging scheme under this Part may contain provision requiring—
(a) documents to be displayed while a motor vehicle is on a road in respect of which charges are imposed, or
(b) equipment to be carried in or fitted to a motor vehicle while it is on such a road.

Commencement Information

I165 S. 171 partly in force; s. 171 not in force at Royal Assent see s. 275(1)(2); s. 171 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 171 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 14**

172 Charging schemes: exemptions etc.

(1) The appropriate national authority may make regulations requiring charging schemes under this Part to contain provision for or in connection with—
(a) exemptions from charges,
(b) the application of reduced rates of charges, or
(c) the imposition of limits on the charges payable.

(2) Subject to regulations under subsection (1) and to section 169(1) and (3), a charging scheme under this Part may contain provision of any of the descriptions specified in that subsection.

[[F95](2A) The appropriate national authority may by regulations—
(a) make provision requiring charging schemes under this Part to provide that in specified circumstances—
(i) persons of a specified description may pay, and
(ii) where those persons so choose, the charging authorities must collect,
the charges imposed by such schemes in a specified manner;
(b) make provision for or in connection with the arrangements to be made by charging authorities with any person for the purpose of enabling charges to be paid, and collected, as mentioned in paragraph (a).

(2B) In subsection (2A) "specified" means specified in the regulations.**]**

(3) A road shall not be subject to charges imposed by more than one charging scheme under this Part, or by such a charging scheme and a scheme under Schedule 23 to the [M83]Greater London Authority Act 1999, at the same time.

(4) A road shall not be subject to charges under a charging scheme under this Part if tolls are charged in respect of the use of the road.

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Textual Amendments

F95 S. 172(2A)(2B) inserted (9.2.2009 for E. in so far as not already in force, 26.11.2008 for specified purposes, 1.4.2009 for W. in so far as not already in force) by Local Transport Act 2008 (c. 26), **ss. 113(2)**, 134(1)(c)(4); S.I. 2009/107, art. 2(2), Sch. 2 Pt. 1; S.I. 2009/579, art. 2(n)

Commencement Information

I166 S. 172 partly in force; s. 172 not in force at Royal Assent see s. 275(1)(2); s. 172 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 172(1) in force and s. 172(2)-(4) in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, Sch. 1 paras. 13, **14**

Marginal Citations

M83 1999 c. 29.

Enforcement of charging schemes

173 Penalty charges.

(1) The appropriate national authority may by regulations make provision for or in connection with the imposition and payment of charges ("charging scheme penalty charges") in respect of acts, omissions, events or circumstances relating to or connected with charging schemes under this Part.

(2) The regulations may include provision for or in connection with setting the rates of charging scheme penalty charges (which may include provision for discounts or surcharges).

(3) Charging scheme penalty charges in respect of any motor vehicle shall be paid—
  (a) by the registered keeper of the motor vehicle, or
  (b) in circumstances specified in regulations made by the appropriate national authority, by such person as is so specified.

(4) The Lord Chancellor may make regulations about the notification, adjudication and enforcement of charging scheme penalty charges.

(5) A person commits an offence if with intent to avoid payment of, or being identified as having failed to pay, a charge imposed by a charging scheme under this Part—
  (a) he interferes with any equipment used for or in connection with charging under the charging scheme, or
  (b) he causes or permits the registration plate of a motor vehicle to be obscured.

(6) A person commits an offence if he makes or uses any false document with intent to avoid payment of, or being identified as having failed to pay, charges imposed by a charging scheme under this Part or charging scheme penalty charges.

(7) A person commits an offence if he removes a notice of a charging scheme penalty charge which has been fixed to a motor vehicle in accordance with regulations under this section unless—
  (a) he is the registered keeper of the vehicle or a person using the vehicle with his authority, or

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(b) he does so under the authority of the registered keeper or such a person or of the charging authority or any of the charging authorities.

(8) A person guilty of an offence under subsection (5) or (6) is liable on summary conviction to—

(a) a fine not exceeding level 5 on the standard scale, or

(b) imprisonment for a term not exceeding six months,

or to both.

(9) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Commencement Information

I167 S. 173 partly in force; s. 173 not in force at Royal Assent see s. 275(1)(2); s. 173 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 173(1)-(4) wholly in force and s. 173(5)-(9) in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, Sch. 1 paras. 13, **14**

174 Examination, entry, search and seizure.

(1) The appropriate national authority may by regulations make provision enabling or requiring charging schemes under this Part to confer powers on persons specified in, or determined in accordance with, the regulations for or in connection with examining a motor vehicle for ascertaining—

(a) whether any document required to be displayed while the motor vehicle is on a road in respect of which charges are imposed is so displayed,

(b) whether any equipment required to be carried in or fitted to the motor vehicle while the motor vehicle is on such a road is carried or fitted, is in proper working order or has been interfered with with intent to avoid payment of, or being identified as having failed to pay, a charge, or

(c) whether any conditions relating to the use of any such equipment are satisfied.

(2) The appropriate national authority may by regulations make provision enabling or requiring charging schemes under this Part to confer power on any person authorised in writing by the charging authority, or any of the charging authorities, to enter a motor vehicle where he has reasonable grounds for suspecting that—

(a) any equipment required to be carried in or fitted to it while it is on a road in respect of which charges are imposed has been interfered with with intent to avoid payment of, or being identified as having failed to pay, a charge imposed by the charging scheme, or

(b) there is in the motor vehicle a false document which has been made or used with intent to avoid payment of, or being identified as having failed to pay, such a charge.

(3) A person commits an offence if he intentionally obstructs a person exercising any power conferred on him by a charging scheme under this Part by virtue of subsection (2).

(4) A person guilty of an offence under subsection (3) is liable on summary conviction to—

(a) a fine not exceeding level 5 on the standard scale, or

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(b) imprisonment for a term not exceeding six months,

or to both.

(5) The appropriate national authority may by regulations make provision enabling or requiring charging schemes under this Part to confer power on any person authorised in writing by the charging authority, or any of the charging authorities, to seize anything (if necessary by detaching it from a motor vehicle) and detain it as evidence of the commission of an offence under section 173(5) or (6).

(6) A charging scheme under this Part may not authorise an examination of, or entry into, a motor vehicle unless it is on a road.

Commencement Information

I168 S. 174 partly in force; s. 174 not in force at Royal Assent see s. 275(1)(2); s. 174 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. 1** (subject to the savings in Sch. 3 Pt. 2); s. 174(1)(2)(5) wholly in force and s. 174(3)(4)(6) in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, Sch. 1 paras. 13, **14**

175 Immobilisation etc.

(1) The appropriate national authority may by regulations make provision enabling or requiring charging schemes under this Part to make provision for or in connection with—

(a) the fitting of immobilisation devices to motor vehicles,

(b) the fixing of immobilisation notices to motor vehicles to which an immobilisation device has been fitted,

(c) the removal and storage of motor vehicles,

(d) the release of motor vehicles from immobilisation devices or from storage,

(e) the satisfaction of conditions before the release of a motor vehicle, and

(f) the sale or destruction of motor vehicles not released.

(2) A person commits an offence if he removes or interferes with an immobilisation notice fixed to a motor vehicle in accordance with provision included in a charging scheme under this Part by virtue of subsection (1) in contravention of such provision.

(3) A person commits an offence if he removes or attempts to remove an immobilisation device fitted to a motor vehicle in accordance with provision included in a charging scheme under this Part by virtue of subsection (1) in contravention of such provision.

(4) A person commits an offence if he intentionally obstructs a person exercising any power conferred on him by provision included in a charging scheme under this Part by virtue of subsection (1).

(5) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) A person guilty of an offence under subsection (3) or (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) In this section "immobilisation device" has the same meaning as in section 104 of the [M84]Road Traffic Regulation Act 1984.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

(8) A charging scheme under this Part may not authorise or require the fitting of an immobilisation device to, or the removal of, a motor vehicle unless it is on a road.

Commencement Information

I169 S. 175 partly in force; s. 175 not in force at Royal Assent see s. 275(1)(2); s. 175 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. 1** (subject to the savings in Sch. 3 Pt. 2); s. 175(1) wholly in force and s. 175(2)-(8) in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, Sch. 1 paras. 13, **14**

Marginal Citations

M84 1984 c. 27.

Supplementary

176 Equipment etc.

(1) The charging authority, or any of the charging authorities, in relation to a charging scheme under this Part may—

(a) install and maintain, or authorise the installation and maintenance of, any equipment, or

(b) construct and maintain, or authorise the construction and maintenance of, any buildings or other structures,

used or to be used for or in connection with the operation of a charging scheme under this Part.

(2) The appropriate national authority may by regulations approve standards for equipment installed, or authorised to be installed, by charging authorities for or in connection with the operation of charging schemes under this Part.

(3) No equipment may be installed for or in connection with the operation of a charging scheme under this Part if it is incompatible with a standard approved under subsection (2).

Commencement Information

I170 S. 176 partly in force; s. 176 not in force at Royal Assent see s. 275(1)(2); s. 176 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. 1** (subject to the savings in Sch. 3 Pt. 2); s. 176(2) wholly in force and s. 176(1)(3) in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, Sch. 1 paras. 13, **14**

177 Traffic signs.

(1) The appropriate national authority may direct the charging authority, or any of the charging authorities, in relation to a charging scheme under this Part (other than a trunk road charging scheme) to place and maintain traffic signs, or cause traffic signs to be placed and maintained, in connection with the scheme.

(2) In the case of a joint local-London charging scheme the Greater London Authority may also exercise the power conferred by subsection (1); but any direction under

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this subsection shall not have effect if and to the extent that it is inconsistent with a direction under subsection (1).

(3) The appropriate national authority may direct any local traffic authority to place and maintain traffic signs, or cause traffic signs to be placed and maintained, in connection with a trunk road charging scheme.

(4) An authority which is or could be given a direction under this section may enter any land, and exercise any other powers which may be necessary, for placing and maintaining traffic signs, or causing traffic signs to be placed and maintained, in connection with any charging scheme in respect of which a direction is or could be given.

(5) A direction under this section shall be given in writing and may be varied or revoked by the authority by which it was given.

(6) In this section "traffic signs" has the meaning given by section 64 of the [M85]Road Traffic Regulation Act 1984 but also includes signposts and other signs and notices included in that term by section 71(2) of that Act.

Commencement Information

I171 S. 177 partly in force; s. 177 not in force at Royal Assent see s. 275(1)(2); s. 177 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 177 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 14**

Marginal Citations

M85 1984 c. 27.

CHAPTER II

WORKPLACE PARKING LEVY

Licensing schemes

178 Preliminary.

(1) In this Part "licensing scheme" means a scheme for imposing charges in respect of the provision of workplace parking places at premises in the area covered by the scheme to be paid on licences covering the provision of a maximum number of such parking places at the premises.

(2) Charges imposed in respect of any premises by a licensing scheme under this Part shall be paid—
   (a) by the occupier of the premises, or
   (b) in circumstances specified in regulations made by the appropriate national authority, by such person as is so specified.

(3) In this Part "licence" means a licence under a licensing scheme under this Part.

(4) A licence relating to premises must cover the provision at the premises of the number of workplace parking places requested by the applicant for the licence; and in this Part

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"licensed unit", in relation to a licence relating to premises, means each unit comprised in the maximum number of workplace parking places which may be provided at the premises under the cover of the licence.

(5) A licensing scheme may be made—

(a) by a non-metropolitan local traffic authority ("a local licensing scheme"),

(b) jointly by more than one non-metropolitan local traffic authority ("a joint local licensing scheme"), or

(c) jointly by one or more non-metropolitan local traffic authorities and one or more London traffic authorities ("a joint local-London licensing scheme").

(6) In this Part—

(a) "the licensing authority", in relation to a licensing scheme under this Part made or proposed to be made by one authority, means the authority by which the licensing scheme is or is proposed to be made, and

(b) "the licensing authorities", in relation to a licensing scheme under this Part made or proposed to be made jointly by more than one authority, means the authorities by which the licensing scheme is or is proposed to be made.

(7) The power to make joint local-London licensing schemes conferred by this Part does not limit any of the powers in Schedule 24 to the [M86]Greater London Authority Act 1999 (workplace parking levy in Greater London).

Commencement Information

I172 S. 178 partly in force; s. 178 not in force at Royal Assent see s. 275(1)(2); s. 178 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 178(2)(b) in force and s. 178(1)(2)(a)(3)-(7) in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, Sch. 1 paras. 15, **16**

Marginal Citations

M86 1999 c. 29.

179 Local licensing schemes.

(1) A local licensing scheme may cover the whole or any part of the area of the licensing authority.

(2) A local licensing scheme may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of policies in the licensing authority's local transport plan.

Modifications etc. (not altering text)

C28 S. 179 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), art. 1, **Sch. 2 para. 13** (with art. 7(4))

Commencement Information

I173 S. 179 partly in force; s. 179 not in force at Royal Assent see s. 275(1)(2); s. 179 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 179 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 16**

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180 Joint local licensing schemes.

(1) A joint local licensing scheme may cover the whole or any part of the combined area of the licensing authorities.

(2) A joint local licensing scheme may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of policies in the licensing authorities' local transport plans.

Modifications etc. (not altering text)

C29 S. 180 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), art. 1, **Sch. 2 para. 14** (with art. 7(4))

Commencement Information

I174 S. 180 partly in force; s. 180 not in force at Royal Assent see s. 275(1)(2); s. 180 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 180 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 16**

181 Joint local-London licensing schemes.

(1) A joint local-London licensing scheme may cover—

(a) the whole or any part of the area of the non-metropolitan local traffic authority, or combined area of the non-metropolitan local traffic authorities, by which it is made, and

(b) the whole or any part of any area to which a scheme under Schedule 24 to the [M87]Greater London Authority Act 1999 made by the London traffic authority, or any of the London traffic authorities, by which it is made could apply.

(2) A joint local-London licensing scheme may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of—

(a) policies in the local transport plan of the non-metropolitan local traffic authority, or the local transport plans of the non-metropolitan local traffic authorities, by which it is made, and

(b) policies and proposals set out in the transport strategy prepared and published by the Mayor of London under section 142 of the [M88]Greater London Authority Act 1999.

Modifications etc. (not altering text)

C30 S. 181 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), art. 1, **Sch. 2 para. 15** (with art. 7(4))

Commencement Information

I175 S. 181 partly in force; s. 181 not in force at Royal Assent see s. 275(1)(2); s. 181 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II)

Marginal Citations

M87 1999 c. 29.

M88 1999 c. 29.

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182 Workplace parking places.

(1) For the purposes of this Part a workplace parking place is provided at any premises at any time if a parking place provided at the premises is at that time occupied by a motor vehicle (other than an exempt vehicle) used—

(a) by a relevant person,

(b) by an employee, agent, supplier, business customer or business visitor of a relevant person,

(c) by a pupil or student attending a course of education or training provided by a relevant person, or

(d) where a body whose affairs are controlled by its members is a relevant person, by a member of the body engaged in the carrying on of any business of the body,

for attending a place at which the relevant person carries on business at or in the vicinity of the premises.

(2) In this section "relevant person" means—

(a) the person who provides the parking place in question ("the provider"),

(b) any person with whom the provider has entered into arrangements to provide the parking place (whether or not for that person's own use), or

(c) any person who is associated with the provider or a person within paragraph (b).

(3) For the purposes of subsection (2)(c) any two persons are associated if and only if—

(a) one is a company of which the other (directly or indirectly) has control, or

(b) both are companies of which a third person (directly or indirectly) has control.

(4) For the purposes of this section—

"business" includes—

(a) any trade, profession, vocation or undertaking,

(b) the functions of any office holder,

(c) the provision of any course of education or training, and

(d) the functions of, or any activities carried on by, a government department or a local authority or other statutory body,

"business customer", in relation to a relevant person, means a client or customer of the relevant person who is attending at any premises occupied by the relevant person for the purposes of a business carried on by that client or customer,

"business visitor", in relation to a relevant person, means an individual who—

(a) in the course of his employment, or

(b) in the course of carrying on a business or for the purposes of a business carried on by him,

is visiting the relevant person or any premises occupied by the relevant person,

"employee" means a person employed under a contract of service or apprenticeship, whether express or implied, and (if express) whether oral or in writing, and

"supplier", in relation to a relevant person, means—

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(a) a person supplying, or seeking to supply, goods or services to the relevant person for the purposes of a business carried on by the relevant person, or
(b) any agent or sub-contractor of such a person.

(5) The appropriate national authority may make regulations amending the preceding provisions of this section for the purpose of adding, removing or varying cases where, for the purposes of this Part, a workplace parking place is provided.

Commencement Information

I176 S. 182 partly in force; s. 182 not in force at Royal Assent see s. 275(1)(2); s. 182 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 182(5) wholly in force and s. 182(1)-(4) in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, Sch. 1 paras. 15, **16**

Making of licensing schemes

183 Licensing schemes to be made by order.

(1) A licensing scheme under this Part is made by order of the licensing authority or of the licensing authorities (acting jointly).

(2) The licensing authority or the licensing authorities (acting jointly) may by order vary a licensing scheme under this Part and the licensing authority or any of the licensing authorities may by order revoke such a scheme.

(3) The appropriate national authority may make regulations about orders making, varying or revoking licensing schemes under this Part, including (in particular)—
(a) provision specifying the form of orders,
(b) provision about the publication of proposals for orders making or varying such licensing schemes and the making and consideration of objections to such proposals, and
(c) provision about the publication of notice of orders and of their effect.

(4) Before making regulations under subsection (3) which relate to joint local-London licensing schemes the Secretary of State shall consult the Greater London Authority about the regulations so far as they so relate.

Commencement Information

I177 S. 183 partly in force; s. 183 not in force at Royal Assent see s. 275(1)(2); s. 183 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 183(3) wholly in force and s. 183(1)(2)(4) in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, Sch. 1 paras. 15, **16**

184 Confirmation of licensing schemes.

(1) A licensing scheme under this Part shall not come into force unless the order making it has been submitted to and confirmed by the appropriate national authority; and a variation of such a licensing scheme shall not take effect until the order making the variation has been so submitted and confirmed.

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(2) Subsection (1) does not apply in such circumstances as may be specified in or determined in accordance with regulations made by the appropriate national authority.

(3) A joint local-London licensing scheme shall not come into force unless the order making it has been submitted to and confirmed by the Greater London Authority; and a variation or revocation of such a licensing scheme shall not take effect until the order making the variation or revocation has been so submitted and confirmed.

(4) Where confirmation of an order is required by this section, the order may be confirmed with or without modifications.

(5) Where confirmation by both the Secretary of State and the Greater London Authority of an order making a joint local-London licensing scheme, or a variation of such a licensing scheme, is required by this section—
- (a) the order shall not be submitted to the Secretary of State until it has been confirmed by the Greater London Authority,
- (b) if the order has been confirmed by the Greater London Authority with modifications it is the modified order that must be submitted to the Secretary of State, and
- (c) the order may not be confirmed with modifications by the Secretary of State until the modifications have been confirmed by the Greater London Authority.

Commencement Information

I178 S. 184 partly in force; s. 184 not in force at Royal Assent see s. 275(1)(2); s. 184 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 184 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 16**

185 Licensing schemes: consultation and inquiries.

(1) The licensing authority or the licensing authorities (acting jointly) may at any time before an order making, varying or revoking a licensing scheme under this Part is made, consult other persons about the licensing scheme, variation or revocation.

(2) The licensing authority or the licensing authorities (acting jointly)—
- (a) may cause an inquiry to be held in relation to a licensing scheme under this Part, or the variation or revocation of such a scheme, and
- (b) may appoint the person or persons by whom such an inquiry is to be held.

(3) The appropriate national authority may at any time—
- (a) before an order making or varying a licensing scheme under this Part is made, or
- (b) (where such an order has to be confirmed) before it is confirmed,

consult other persons, or require the licensing authority or authorities to consult other persons, about the licensing scheme or variation.

(4) The appropriate national authority—
- (a) may cause an inquiry to be held in relation to a licensing scheme under this Part or the variation of such a scheme, and
- (b) may appoint the person or persons by whom such an inquiry is to be held.

(5) In the case of a joint local-London licensing scheme—

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(a) the Greater London Authority may, at any time before an order making, varying or revoking the licensing scheme is confirmed by that Authority, consult other persons, or require the licensing authorities to consult other persons, about the licensing scheme, variation or revocation, and

(b) the Secretary of State shall not cause an inquiry to be held in relation to the licensing scheme, or the variation of the licensing scheme, or appoint the person or persons by whom such an inquiry is to be held, without the consent of the Greater London Authority.

(6) Subsections (2) and (3) of section 250 of the [M89]Local Government Act 1972 (witnesses at local inquiries) apply in relation to any inquiry held by virtue of this section.

(7) Where an inquiry is held by virtue of this section in relation to a licensing scheme or the variation or revocation of such a scheme—

(a) the costs of the inquiry shall be paid by the licensing authority or authorities, and

(b) the parties at the inquiry shall bear their own costs.

Commencement Information

I179 S. 185 partly in force; s. 185 not in force at Royal Assent see s. 275(1)(2); s. 185 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 185 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 16**

Marginal Citations

M89 1972 c. 70.

Contents of licensing schemes and licences

186 Matters to be dealt with in licensing schemes.

(1) A licensing scheme under this Part must—

(a) designate the area covered by the licensing scheme ("the licensing area"),

(b) state the days on which, and hours during which, a licence is required,

(c) specify the charges payable on licences (expressed as a specified sum of money for each licensed unit), and

(d) state whether or not the licensing scheme is to remain in force indefinitely and, if it is not to remain in force indefinitely, the period for which it is to remain in force.

(2) Subject to sections 179 to 181 and to any modifications made by virtue of section 184, the designation by a licensing scheme under this Part of the boundaries of the licensing area shall be such as the licensing authority or authorities may determine.

(3) The charges that may be imposed by a licensing scheme under this Part include different charges (which may be no charge) for different cases, including (in particular) —

(a) different days,

(b) different times of day,

(c) different parts of the licensing area,

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(d) different classes of motor vehicles, and
(e) different numbers of licensed units.

(4) In setting the charges imposed by a licensing scheme under this Part, regard may be had to the purposes for which any of the net proceeds of the licensing scheme may be applied (in accordance with Schedule 12).

(5) A licensing scheme may include provision for or in connection with—
(a) the making of an application for a licence,
(b) the grant of a licence,
(c) the issue of a licence, and
(d) the variation or revocation of a licence.

Commencement Information
I180 S. 186 partly in force; s. 186 not in force at Royal Assent see s. 275(1)(2); s. 186 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 186 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 16**

187 Licensing schemes: exemptions etc.

(1) The appropriate national authority may make regulations requiring licensing schemes under this Part to contain provision for or in connection with—
(a) exemptions from licensing,
(b) the application of reduced rates of charges payable on licences, or
(c) the imposition of limits on the charges payable on a licence.

(2) Subject to regulations under subsection (1) and to section 184(1) and (3), a licensing scheme under this Part may contain provision of any of the descriptions specified in that subsection.

(3) The same premises shall not be subject to more than one licensing scheme under this Part, or to such a licensing scheme and a scheme under Schedule 24 to the [M90]Greater London Authority Act 1999, at the same time.

(4) In subsection (1) the reference to exemptions from licensing includes (as well as exemptions in respect of any description of premises, persons or motor vehicles) exemption of a specified number of parking places provided at any premises from being workplace parking places, either generally or in the case of any description of premises, persons or motor vehicles.

Commencement Information
I181 S. 187 partly in force; s. 187 not in force at Royal Assent see s. 275(1)(2); s. 187 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 187(1) wholly in force and s. 187(2)-(4) in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, Sch. 1 paras. 15, **16**

Marginal Citations
M90 1999 c. 29.

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188 Licences.

(1) A licence must—
- (a) state the name of the person to whom it is granted,
- (b) identify the premises to which it relates,
- (c) specify the maximum number of motor vehicles (not counting exempt vehicles) which may be parked at those premises at any one time, and
- (d) state the amount of the charge paid on the licence and set out the calculation of that amount.

(2) A licence may be granted subject to conditions.

(3) A licence may not be granted for a period of more than one year.

(4) A person commits an offence if he intentionally provides false or misleading information in or in connection with an application for a licence.

(5) A person guilty of an offence under subsection (4) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
- (b) on conviction on indictment, to a fine.

Commencement Information

I182 S. 188 partly in force; s. 188 not in force at Royal Assent see s. 275(1)(2); s. 188 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 188 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 16**

Enforcement of licensing schemes

189 Penalty charges.

(1) The appropriate national authority may by regulations make provision for or in connection with the imposition and payment of charges ("licensing scheme penalty charges") in respect of acts, omissions, events or circumstances relating to or connected with licensing schemes under this Part.

(2) The regulations may include provision for or in connection with setting the rates of licensing scheme penalty charges (which may include provision for discounts or surcharges).

(3) Licensing scheme penalty charges in respect of any premises shall be paid—
- (a) by the occupier of the premises, or
- (b) in circumstances specified in regulations made by the appropriate national authority, by such person as is so specified.

(4) The Lord Chancellor may make regulations about the notification, adjudication and enforcement of licensing scheme penalty charges.

Commencement Information

I183 S. 189 partly in force; s. 189 not in force at Royal Assent see s. 275(1)(2); s. 189 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 189(1)(2)

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(3)(b)(4) wholly in force and s. 189(3)(a) in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1**, paras. 15, 16

190 Rights of entry.

(1) Where a person duly authorised in writing by the licensing authority, or any of the licensing authorities, in relation to a licensing scheme under this Part has reason to believe that workplace parking places are being provided at any premises in the licensing area, he may at any reasonable time enter the premises for ascertaining—

(a) whether any workplace parking places are being provided at the premises without a licence or a licence covering all the workplace parking places being provided, or

(b) whether there is or has been any contravention of the conditions of a licence in respect of the premises.

(2) A person duly authorised in writing by the licensing authority, or any of the licensing authorities, in relation to a licensing scheme under this Part may at any reasonable time enter any premises for the purpose of issuing notice of a licensing scheme penalty charge.

(3) A person authorised under subsection (1) or (2) to enter any premises shall, if so required, produce evidence of his authority before so entering.

(4) A person commits an offence if he intentionally obstructs a person exercising any power conferred on him by subsection (1) or (2).

(5) A person guilty of an offence under subsection (4) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum, or

(b) on conviction on indictment, to a fine.

(6) Where any land is damaged in the exercise of a right of entry conferred under subsection (1) or (2), compensation in respect of that damage may be recovered by any person interested in the land from the authority on whose behalf the entry was effected.

(7) The provisions of section 118 of the [M91]Town and Country Planning Act 1990 shall apply in relation to compensation under subsection (6) as they apply in relation to compensation under Part IV of that Act.

Commencement Information

I184 S. 190 partly in force; s. 190 not in force at Royal Assent see s. 275(1)(2); s. 190 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 190 in force for specified purposes (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 16**

Marginal Citations

M91 1990 c. 8.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

CHAPTER III

GENERAL AND SUPPLEMENTARY

191 Financial provisions about schemes.

Schedule 12 contains financial provisions about charging schemes and licensing schemes.

Commencement Information

I185 S. 191 partly in force; s. 191 not in force at Royal Assent see s. 275(1)(2); s. 191 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II)

192 Powers of authorities.

The charging authority or licensing authority, or any of the charging authorities or licensing authorities, in relation to a charging scheme or licensing scheme under this Part may—

(a) incur expenditure in or in connection with the establishment or operation of the charging scheme or licensing scheme, or

(b) enter into arrangements (including arrangements for forming or participating in companies) with any person in respect of the operation of the charging scheme or licensing scheme or relating to the installation or operation of any equipment used for or in connection with the operation of the charging scheme or licensing scheme.

Commencement Information

I186 S. 192 wholly in force at 1.8.2001; s. 192 not in force at Royal Assent see s. 275(1)(2); s. 192 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II; s. 192 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 17**

193 Guidance.

(1) The appropriate national authority may issue guidance to non-metropolitan local traffic authorities and London traffic authorities in relation to the discharge of their functions with respect to charging schemes and licensing schemes under this Part; and such authorities shall, in exercising those functions, have regard to any such guidance.

(2) Before issuing guidance under this section which relates to joint local-London charging schemes or joint local-London licensing schemes the Secretary of State shall consult the Greater London Authority about the guidance so far as it so relates.

(3) Guidance issued under this section shall be published in such manner as the appropriate national authority by which it is issued considers appropriate; and the appropriate national authority may at any time vary or revoke guidance issued by it under this section.

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Commencement Information

I187 S. 193 wholly in force at 1.8.2001; s. 193 not in force at Royal Assent see s. 275(1)(2); s. 193 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 193 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 17**

194 Information.

(1) Information obtained by—

(a) any Minister of the Crown or government department,

(b) the National Assembly for Wales, or

(c) any local authority or other statutory body,

may be disclosed to the charging authority or licensing authority, or any of the charging authorities or licensing authorities, in relation to a charging scheme or licensing scheme under this Part for or in connection with the exercise of any of their functions with respect to the charging scheme or licensing scheme.

(2) Information obtained by the charging authority or licensing authority, or any of the charging authorities or licensing authorities, in relation to a charging scheme or licensing scheme under this Part for or in connection with any of their functions other than their functions with respect to the charging scheme or licensing scheme may be used by them for or in connection with the exercise of any of their functions with respect to the charging scheme or licensing scheme.

(3) Any information—

(a) which has been or could be disclosed to an authority under subsection (1) for or in connection with the exercise of any of their functions with respect to the charging scheme or licensing scheme, or

(b) which has been or could be used by an authority by virtue of subsection (2) for or in connection with the exercise of any of those functions,

may be disclosed to any person with whom the authority has entered into arrangements under section 192(b).

(4) Information disclosed to a person under subsection (3)—

(a) may be disclosed to any other person for or in connection with the charging scheme or licensing scheme, but

(b) may not be used (by him or any other person to whom it is disclosed under paragraph (a)) otherwise than for or in connection with the charging scheme or licensing scheme.

Commencement Information

I188 S. 194 wholly in force at 1.8.2001; s. 194 not in force at Royal Assent see s. 275(1)(2); s. 194 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 194 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 17**

195 Determination of disputes, appeals and evidence.

(1) The Lord Chancellor may by regulations make provision for or in connection with—

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(a) appeals against decisions relating to licences under licensing schemes under this Part or any failure to make such a decision,
(b) the determination of disputes relating to charging schemes or licensing schemes under this Part,
(c) appeals against such determinations or any failure to make such a determination, and
(d) the appointment of persons to hear any such appeals.

(2) The Lord Chancellor may by regulations make provision for or in connection with permitting evidence of a fact relevant to proceedings for an offence under this Part, or proceedings in respect of a failure to comply with the provisions of a charging scheme or licensing scheme under this Part, to be given by the production of—
(a) a record produced by a device specified in, or determined in accordance with, the regulations, and
(b) a certificate (whether in the same or another document) as to the circumstances in which the record was produced signed by a person so specified or determined.

Commencement Information

I189 S. 195 wholly in force at 1.8.2001; s. 195 not in force at Royal Assent see s. 275(1)(2); s. 195 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 195 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 17**

196 Crown application.

(1) Chapter I applies in relation to Crown roads (within the meaning of section 131 of the [M92]Road Traffic Regulation Act 1984) as in relation to other roads.

(2) The provisions of this Part and of regulations and schemes under it bind the Crown.

(3) No contravention by the Crown of any of those provisions makes the Crown criminally liable; but—
(a) the High Court may, on the application of a charging authority, declare unlawful any act or omission of the Crown which constitutes such a contravention, and
(b) (subject to subsection (4)) those provisions apply to motor vehicles or persons in the public service of the Crown as they apply to other motor vehicles or persons.

(4) No power of entry conferred by—
(a) regulations made under section 174(2), or
(b) section 190(1) or (2),
is exercisable in relation to any motor vehicle in the public service of the Crown or any premises held or used by or on behalf of the Crown.

(5) Nothing in this section affects Her Majesty in her private capacity; and this subsection shall be construed as if section 38(3) of the [M93]Crown Proceedings Act 1947 (interpretation of references in that Act to Her Majesty in her private capacity) were contained in this Act.

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Commencement Information

I190 S. 196 wholly in force at 1.8.2001; s. 196 not in force at Royal Assent see s. 275(1)(2); s. 196 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 196 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 17**

Marginal Citations

M92 1984 c. 27.

M93 1947 c. 44.

197 Part III: regulations and orders.

(1) Any power to make regulations under this Part—

(a) is exercisable by statutory instrument,

(b) includes power to make different provision for different cases, and

(c) may be exercised so as to make incidental, consequential, supplementary or transitional provision or savings.

(2) The power to make an order making, varying or revoking a trunk road charging scheme is exercisable by statutory instrument.

(3) Regulations under paragraph 9(1) or 13(2) or (5) of Schedule 12 shall not be made without the consent of the Treasury.

(4) Regulations shall not be made by the Secretary of State under—

(a) section 182(5), or

(b) paragraph 9(1) or 13(2) or (5) of Schedule 12,

unless a draft of the regulations has been laid before, and approved by a resolution of, the House of Commons.

(5) A statutory instrument containing regulations made by the Secretary of State or the Lord Chancellor under any other provision of this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) The references in subsections (4) and (5) to regulations made by the Secretary of State include regulations made by him jointly with the National Assembly for Wales.

Commencement Information

I191 S. 197 wholly in force at 1.8.2001; s. 197 not in force at Royal Assent see s. 275(1)(2); s. 197 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 197 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 17**

198 Interpretation of Part III.

(1) In this Part—

"the appropriate national authority" means—

(a) the Secretary of State in relation to charging schemes and licensing schemes relating only to England,

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(b) the National Assembly for Wales in relation to charging schemes and licensing relating only to Wales, and

(c) the Secretary of State and the National Assembly for Wales, acting jointly, in relation to charging schemes and licensing schemes relating to both England and Wales,

"bridge" means a bridge or viaduct and includes the abutments of a bridge,

"charging authority" and "charging authorities" have the meanings given by section 163(5),

"charging scheme" has the meaning given by section 163(1),

"charging scheme penalty charges" shall be construed in accordance with section 173(1),

"exempt vehicle", in relation to a licensing scheme, means a motor vehicle exempt from licensing under the scheme by virtue of regulations under subsection (1) of section 187 or provision included in the scheme by virtue of subsection (2) of that section,

"financial year" means a period of twelve months ending with 31st March,

"joint local charging scheme" shall be construed in accordance with section 163(3)(b),

"joint local licensing scheme" shall be construed in accordance with section 178(5)(b),

"joint local-London charging scheme" shall be construed in accordance with section 163(3)(c),

"joint local-London licensing scheme" shall be construed in accordance with section 178(5)(c),

"licence" shall be construed in accordance with section 178(3),

"licensed unit" has the meaning given by section 178(4),

"licensing area" shall be construed in accordance with section 186(1)(a),

"licensing authority" and "licensing authorities" have the meanings given by section 178(6),

"licensing scheme" has the meaning given by section 178(1),

"licensing scheme penalty charges" shall be construed in accordance with section 189(1),

"local charging scheme" shall be construed in accordance with section 163(3)(a),

"local licensing scheme" shall be construed in accordance with section 178(5)(a),

"local traffic authority" has the same meaning as in the [M94]Road Traffic Regulation Act 1984,

"London traffic authority" means Transport for London, a London borough council or the Common Council of the City of London,

"motor vehicle" has the meaning given in section 185(1) of the [M95]Road Traffic Act 1988, except that section 189 of that Act (exception for certain pedestrian controlled vehicles and electrically assisted pedal cycles) shall apply as it applies for the purposes of the Road Traffic Acts,

"non-metropolitan local traffic authority" shall be construed in accordance with section 163(4),

"operation" includes enforcement (related expressions being construed accordingly),

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"registered keeper", in relation to a charge imposed in respect of motor vehicle, means the person in whose name the vehicle was registered under the [M96]Vehicle Excise and Registration Act 1994 at the time of the act, omission, event or circumstances in respect of which the charge is imposed,

"road" has the same meaning as in the [M97]Road Traffic Regulation Act 1984,

"trunk road charging scheme" shall be construed in accordance with section 163(3)(d), and

"workplace parking place" shall be construed in accordance with section 182.

(2) Any reference in this Part to an authority's local transport plan shall, where the authority is the council of a metropolitan district, be construed as a reference to the local transport plan made jointly by the Passenger Transport Authority for the passenger transport area in which the district is included and the councils for the metropolitan districts comprised in that area.

(3) Any reference in this Part to a class of motor vehicles is a reference to a class defined or described, by reference to any characteristics of the motor vehicles or to any other circumstances whatsoever, in regulations made by the appropriate national authority.

Modifications etc. (not altering text)

C31 S. 198 applied (with modifications) (1.2.2005) by The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (S.I. 2005/157), art. 1, **Sch. 2 para. 16** (with art. 7(4))

Commencement Information

I192 S. 198 wholly in force at 1.8.2001; s. 198 not in force at Royal Assent see s. 275(1)(2); s. 198 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 198 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 17**

Marginal Citations

M94 1984 c. 27.
M95 1988 c. 52.
M96 1994 c. 22.
M97 1984 c. 27.

199 Amendments of Greater London Authority Act.

Schedule 13 contains amendments of Schedules 23 and 24 to the [M98]Greater London Authority Act 1999 in consequence of the provisions of this Part and minor amendments of those Schedules.

Commencement Information

I193 S. 199 partly in force; s. 199 not in force at Royal Assent see s. 275(1)(2); s. 199 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II)

Marginal Citations

M98 1999 c. 29.

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200 Exemption from local non-domestic rating.

In Schedule 5 to the [M99]Local Government Finance Act 1988 (local non-domestic rating: exemptions), after paragraph 18A insert—

Property used for road user charging schemes

"18B (1) A hereditament which is occupied (as mentioned in section 65 of this Act) is exempt to the extent that—

(a) it consists of a road in respect of which charges are imposed by a charging scheme under Schedule 23 to the [M100]Greater London Authority Act 1999 or Part III of the Transport Act 2000, or

(b) it is used solely for or in connection with the operation of such a scheme.

(2) But office buildings are not exempt under sub-paragraph (1)(b) above."

Commencement Information

I194 S. 200 wholly in force at 1.8.2001; s. 200 not in force at Royal Assent see s. 275(1)(2); s. 200 in force (E.) at 1.2.2001 by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 200 in force (W.) at 1.8.2001 by S.I. 2001/2788, art. 2, **Sch. 1 para. 17**

Marginal Citations

M99 1988 c. 41.

M100 1999 c. 29.

PART IV

RAILWAYS

CHAPTER I

THE STRATEGIC RAIL AUTHORITY

The Authority

[F96]201 The Authority.

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Textual Amendments

F96 Ss. 201-211 repealed (26.6.2005 for the repeal of s. 206, 1.12.2006 for the repeal of ss. 201-205, 207-211) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1444, art. 2(2), **Sch. 2**; S.I. 2006/2911, **Sch.**

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[F96]202 Membership and chairing.

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Textual Amendments

F96 Ss. 201-211 repealed (26.6.2005 for the repeal of s. 206, 1.12.2006 for the repeal of ss. 201-205, 207-211) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1444, art. 2(2), **Sch. 2**; S.I. 2006/2911, **Sch.**

[F96]203 Other senior appointments.

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Textual Amendments

F96 Ss. 201-211 repealed (26.6.2005 for the repeal of s. 206, 1.12.2006 for the repeal of ss. 201-205, 207-211) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1444, art. 2(2), **Sch. 2**; S.I. 2006/2911, **Sch.**

[F96]204 Further provisions.

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Textual Amendments

F96 Ss. 201-211 repealed (26.6.2005 for the repeal of s. 206, 1.12.2006 for the repeal of ss. 201-205, 207-211) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1444, art. 2(2), **Sch. 2**; S.I. 2006/2911, **Sch.**

Purposes, strategies and exercise of functions

[F96]205 Purposes.

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Textual Amendments

F96 Ss. 201-211 repealed (26.6.2005 for the repeal of s. 206, 1.12.2006 for the repeal of ss. 201-205, 207-211) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1444, art. 2(2), **Sch. 2**; S.I. 2006/2911, **Sch.**

[F96]206 Strategies.

. . . . . .

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Textual Amendments

F96 Ss. 201-211 repealed (26.6.2005 for the repeal of s. 206, 1.12.2006 for the repeal of ss. 201-205, 207-211) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1444, art. 2(2), **Sch. 2**; S.I. 2006/2911, **Sch.**

F96 207 Manner of exercise of functions.

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Textual Amendments

F96 Ss. 201-211 repealed (26.6.2005 for the repeal of s. 206, 1.12.2006 for the repeal of ss. 201-205, 207-211) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1444, art. 2(2), **Sch. 2**; S.I. 2006/2911, **Sch.**

F96 208 Directions, guidance and advice by Scottish Ministers.

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Textual Amendments

F96 Ss. 201-211 repealed (26.6.2005 for the repeal of s. 206, 1.12.2006 for the repeal of ss. 201-205, 207-211) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1444, art. 2(2), **Sch. 2**; S.I. 2006/2911, **Sch.**

F96 209 Directions, guidance and advice: supplementary.

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Textual Amendments

F96 Ss. 201-211 repealed (26.6.2005 for the repeal of s. 206, 1.12.2006 for the repeal of ss. 201-205, 207-211) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1444, art. 2(2), **Sch. 2**; S.I. 2006/2911, **Sch.**

F96 210 Validity of transactions.

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Textual Amendments

F96 Ss. 201-211 repealed (26.6.2005 for the repeal of s. 206, 1.12.2006 for the repeal of ss. 201-205, 207-211) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1444, art. 2(2), **Sch. 2**; S.I. 2006/2911, **Sch.**

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Securing provision of railway services and assets etc.

[F96]211 Financial assistance etc.

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Textual Amendments

F96 Ss. 201-211 repealed (26.6.2005 for the repeal of s. 206, 1.12.2006 for the repeal of ss. 201-205, 207-211) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1444, art. 2(2), **Sch. 2**; S.I. 2006/2911, **Sch.**

212 Securing of services by franchising.

(1) In section 23 of the [M101]Railways Act 1993, in subsection (1) (duty of Authority to designate passenger services as eligible for provision under franchise agreements), for the words after "designate" substitute " such services for the carriage of passengers by railway (other than services which are, by virtue of section 24 below, exempt from designation under this subsection) as it considers ought to be provided under franchise agreements. "

(2) In that section, after subsection (2) insert—

"(2A) A designation may be varied or revoked; but a variation or revocation of the designation of particular services, or services of a class or description, shall not affect any franchise agreement previously entered into with respect to those services or services of that class or description.

(2B) The Authority shall publish designations, and any variations or revocations of designations, in such manner as it considers appropriate."

(3) In section 26 of that Act (invitations to tender for franchise), after subsection (3) insert—

"(4) The directions which may be given under subsection (1) above (at any time when the Secretary of State considers it inappropriate that the person who is to be the franchisee under a franchise agreement should be selected after an invitation to tender) include—

(a) a direction that that person is to be the person specified in the direction, and

(b) a direction requiring the Authority to select that person in such manner as is so specified,

(as well as a direction authorising the Authority to select that person in such other manner as it may consider appropriate).

(5) The Secretary of State shall prepare and publish a statement of policy with respect to directions under subsection (1) above.

(6) The statement shall (in particular) contain the Secretary of State's policy about—

(a) when he will consider giving a direction (including, in particular, when he will consider doing so in relation to a franchise agreement

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which is to replace an earlier franchise agreement before the end of its franchise term); and

(b) the sorts of direction which he will consider giving in particular circumstances.

(7) In deciding whether to give a direction, and (if so) what direction to give, the Secretary of State shall have regard to the statement of policy.

(8) The Secretary of State—

(a) may at any time alter or replace a statement of policy; and

(b) shall publish the altered or replacement statement.

(9) The Secretary of State shall undertake appropriate consultation when preparing, altering or replacing a statement of policy.

(10) When a statement of policy is prepared, altered or replaced, a copy of the statement shall be laid before each House of Parliament."

F97(4) . . . . . .

(5) For section 30 of that Act substitute—

"**30 Duty of Authority in absence of franchise.**

(1) The Authority shall provide, or secure the provision of, services for the carriage of passengers by railway where—

(a) a direction not to seek to secure the provision of the services under a franchise agreement has been given to the Authority under section 26A or 26B above (and not revoked); or

(b) a franchise agreement in respect of the services is terminated or otherwise comes to an end but no further franchise agreement has been entered into in respect of the services (otherwise than because of such a direction).

(2) The duty in subsection (1) above in relation to any services ceases if the services begin (or again begin) to be provided under a franchise agreement.

(3) Subsection (1) above does not—

(a) require the Authority to provide or secure the provision of services if and to the extent that, in its opinion, adequate alternative railway passenger services are available;

(b) preclude it from giving notice under subsection (5) of section 38 below in relation to any of the services, in which case its duty under this section to secure the provision of the services to which the notice relates will (subject to subsections (5) and (6) of that section) terminate on the day specified in the notice in pursuance of paragraph (b) of that subsection; or

(c) preclude it from ceasing to provide or secure the provision of any of the services in any case falling within any of paragraphs (a) to (d) of subsection (2) of that section."

(6) In section 18 of that Act (access agreements: contracts requiring approval of Regulator), after subsection (6) insert—

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"(6A) The grounds on which the Regulator may reject, or approve subject to modifications, a proposed access contract submitted to him pursuant to subsection (5) above include that he considers that the use of the facility for which it provides might impede the provision of services—

(a) under a franchise agreement; or

(b) under an agreement entered into by the Authority pursuant to its duty under section 30 below."

Textual Amendments

F97 S. 212(4) repealed (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.

Commencement Information

I195 S. 212 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M101 1993 c. 43.

[F98]213 Limited additional powers to provide railway services.

. . . . . .

Textual Amendments

F98 S. 213 repealed (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), Sch. 1 para. 36(a), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.

[F99]214 Securing provision of substitute bus and taxi services.

. . . . . .

Textual Amendments

F99 S. 214 repealed (1.12.2006) by Railways Act 2005 (c. 14), s. 60(2), Sch. 1 para. 36(b), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2006/2911, art. 2, Sch.

Functions of Franchising Director, Regulator and Board

215 Assumption of functions of Franchising Director.

(1) Schedule 16 transfers to the Authority the functions of the Franchising Director.

(2) All the property, rights and liabilities of the Franchising Director (including any rights and liabilities relating to staff appointed by him) are by virtue of this section transferred to the Authority.

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(3) Nothing in this Part affects the validity of anything done by or in relation to the Franchising Director.

(4) There may be continued by or in relation to the Authority anything (including legal proceedings) which is in the process of being done by or in relation to the Franchising Director when his functions, property, rights and liabilities are transferred to the Authority.

(5) Anything done by the Franchising Director which is in effect immediately before his functions, property, rights or liabilities are transferred to the Authority shall be treated as if done by the Authority.

(6) The Authority shall be substituted for the Franchising Director in private Acts, instruments made under Acts, other documents and legal proceedings.

(7) For the purposes of the [M102]Employment Rights Act 1996, where a person employed in the civil service of the state becomes an employee of the Authority by virtue of this section—

(a) his period of employment in the civil service of the state counts as a period of employment with the Authority, and

(b) the change of employment does not break the continuity of the period of employment.

(8) In consequence of the preceding provisions of this section the office of Franchising Director is abolished.

(9) If the Secretary of State determines that there are special circumstances which make it right that the person who is the Franchising Director immediately before the office is abolished should receive compensation, the Secretary of State shall pay to that person such compensation as may be determined by the Secretary of State.

Commencement Information

I196 S. 215 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M102 1996 c. 18.

216 Assumption of certain functions of [[F100]Office of Rail Regulation].

Schedule 17 makes provision for the transfer to the Authority of certain functions of the **[**[F100]Office of Rail Regulation**]** and of associated property, rights and liabilities.

Textual Amendments

F100 Words in s. 216 substituted (5.7.2004) by Railways and Transport Safety Act 2003 (c. 20), **Sch. 2 para. 19(t)(ii)**; S.I. 2004/827, art. 4(g)

Commencement Information

I197 S. 216 wholly in force at 1.2.2001; s. 216 not in force at Royal Assent see s. 275(1)(2); s. 216 in force (30.1.2001) for certain purposes by S.I. 2001/57, art. 2, **Sch. 1**; s. 216 in force (1.2.2001) in so far as it

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is not already in force by S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch, 2Pt. II)

217 Assumption of Board's functions relating to transport police.

(1) Schedule 18 transfers to the Authority the functions of the Board relating to the British Transport Police and associated property, rights and liabilities.

F101(2) . . . . . .

Textual Amendments

F101 S. 217(2) repealed (1.12.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2006/2911, art. 2, Sch.

Commencement Information

I198 S. 217 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

F102218 Functions relating to Board's property.

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Textual Amendments

F102 S. 218 repealed (1.12.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2006/2911, art. 2, Sch.

Other powers

F103219 Power to make bye-laws.

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Textual Amendments

F103 S. 219 repealed (16.10.2005) by Railways Act 2005 (c. 14), s. 60(2), Sch. 1 para. 36(c), **Sch. 13 Pt. 1** (with s. 14(4)(5), 46(4), Sch. 11 para. 11(2), Sch. 13 para. 2); S.I. 2005/2812, art. 2(1), Sch. 1

F104220 Power to make transfer schemes.

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Textual Amendments

F104 Ss. 220-222 repealed (1.12.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2006/2911, art. 2, Sch.

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[F104]221 Power to promote and oppose Bills.

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Textual Amendments

F104 Ss. 220-222 repealed (1.12.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2006/2911, art. 2, Sch.

[F104]222 Other incidental powers.

. . . . . .

Textual Amendments

F104 Ss. 220-222 repealed (1.12.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2006/2911, art. 2, Sch.

CHAPTER II

OTHER PROVISIONS ABOUT RAILWAYS

Directions to provide etc. railway facilities

223 Regulator's power to require provision etc. of railway facilities.

In the [M103]Railways Act 1993, after section 16 insert—

" Directions to provide, improve or develop railway facilities

16A Provision, improvement and development of railway facilities.

(1) The Regulator may, on an application—

(a) made by the Authority, or

(b) made by any other person with the consent of the Authority,

give to the operator of a network, station or light maintenance depot a direction to provide a new railway facility if the Regulator considers him to be an appropriate person to provide the new railway facility.

(2) The Regulator may, on an application—

(a) made by the Authority, or

(b) made by any other person with the consent of the Authority,

give to a person who has an estate or interest in, or right over, an existing railway facility a direction to improve or develop the railway facility if the Regulator considers him to be an appropriate person to improve or develop the railway facility.

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(3) The Authority's consent to the making by any other person of an application under subsection (1) or (2) above may be given subject to compliance with conditions (and may be withdrawn if any condition is not complied with before the Regulator decides whether to give the direction).

16B Exemption of railway facilities from section 16A.

(1) The Secretary of State may, after consultation with the Regulator, by order grant exemption from subsection (1) or (2) of section 16A above (or from both of those subsections) in respect of such railway facilities as may be specified in the order, but subject to compliance with such conditions (if any) as may be so specified.

(2) An exemption under subsection (1) above may be granted in respect of—
   (a) railway facilities of a particular class or description, or
   (b) a particular railway facility,

   or in respect of part only of railway facilities of a particular class or description or a particular railway facility.

(3) An exemption under subsection (1) above may be granted generally, to persons of a particular class or description or to a particular person.

(4) If a person fails to comply with any condition subject to compliance with which an exemption was granted, the Secretary of State may give a direction declaring that the exemption is revoked, so far as relating to that person, to such extent and as from such date as may be specified in the direction.

(5) Subject to subsection (4) above, an exemption, unless previously revoked in accordance with any term contained in the exemption, shall continue in force for such period as may be specified in, or determined by or under, the exemption.

(6) Exemptions may make different provision, or be granted subject to compliance with different conditions, for different cases.

16C Making of applications for directions.

(1) An application for a direction under section 16A above must be made to the Regulator in writing.

(2) The application must—
   (a) specify the person to whom the direction would be given;
   (b) state what it would require him to do; and
   (c) give the applicant's reasons for considering that person to be an appropriate person to do what the direction would require him to do.

(3) The applicant may at any time vary what the direction would require that person to do by giving to the Regulator notice in writing of the variation; but if the applicant is a person other than the Authority such a notice may only be given with the consent of the Authority.

(4) The application or notice of a variation may be accompanied by any written representations which the applicant wishes to make in relation to the direction.

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16D Procedure for considering applications.

(1) When the Regulator has received the application or notice of a variation, he must—

(a) send a copy to the person specified in the application, the Authority (if it is not the applicant) and any other persons who the Regulator considers ought to be sent one; and

(b) invite them to make written representations within a period specified in the invitation.

(2) If the person specified in the application makes representations that he is not an appropriate person to do what the direction would require him to do, the Regulator must decide that issue in advance of considering any other matters which may be relevant in deciding whether to give the direction.

(3) If that person makes such representations but the Regulator decides that he is an appropriate person to do what the direction would require him to do, the Regulator must—

(a) notify him of that decision; and

(b) invite him to make written representations within a period specified in the invitation about any other matters which may be relevant in deciding whether to give the direction.

(4) The Regulator must—

(a) send the applicant a copy of any representations received by him in response to any invitation under subsection (1) or (3) above; and

(b) invite him to make further written representations within a period specified in the invitation.

(5) Subject to subsection (6) below, the Regulator may substitute as the applicant any other person if—

(a) the applicant,

(b) the other person, and

(c) the Authority (if it is neither the applicant nor the other person),

consent to the substitution.

(6) The applicant may, by giving notice in writing to the Regulator, withdraw or suspend the application at any time before the Regulator decides whether to give the direction.

(7) The Regulator may direct—

(a) the person specified in the application,

(b) the applicant, or

(c) any other person (apart from the Authority),

to provide him with any information required by him in order to decide whether to give the direction.

(8) If a person fails to comply with a direction under subsection (7) above, the High Court or the Court of Session may, on the application of the Regulator, make such order as it thinks fit for requiring the failure to be made good.

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(9) Such an order may provide that all the costs or expenses of and incidental to the application shall be borne by—
  (a) the person who failed to comply; or
  (b) in the case of a company or other association, any officers who are responsible for the failure to comply.

16E Decisions on applications: adequate reward.

(1) The Regulator may only give a direction to a person under section 16A above to provide, improve or develop a railway facility if he is satisfied that the person will be adequately rewarded for providing, improving or developing the railway facility in accordance with the direction.

(2) In considering whether he is so satisfied the Regulator shall take into account (in particular)—
  (a) any receipts obtained or likely to be obtained by the person (from the Authority, passengers, operators of railway services or any other persons) in connection with, or as a result of, the provision, improvement or development of the railway facility; and
  (b) any other benefit obtained or likely to be obtained by him in consequence of its provision, improvement or development.

(3) Representations made by the applicant for a direction—
  (a) under section 16C(4) above, or
  (b) in response to an invitation under section 16D(4) above,

  may, in particular, include representations as to matters which he considers the Regulator should take into account in deciding whether the person to whom the direction would be given would be adequately rewarded for doing what it would require him to do.

16F Other provisions about decisions.

(1) If the Regulator does not consider it right to give a direction under section 16A above in the terms applied for (or to reject the application), he may give a direction under that section in modified terms.

(2) The Regulator may include supplementary provisions in any direction under section 16A above, including (in particular)—
  (a) provision adding detail (for instance, as to the time by which, or standard to which, the person to whom it is given is to do anything which it requires him to do); and
  (b) provision imposing requirements on the applicant (for instance, to make arrangements for rewarding the person to whom the direction is given or to make payments to him).

(3) Before giving a direction under section 16A above which is in modified terms or includes supplementary provisions, the Regulator shall—
  (a) notify his intention to give a direction to the applicant, the Authority (if it is not the applicant) and any other persons who the Regulator considers ought to be notified; and

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(b) invite them to make written representations within a period specified in the invitation;

and if the applicant makes representations that the direction should not be given, the Regulator shall not give it.

(4) Whatever the Regulator's decision on an application he shall notify the decision to—

(a) the person specified in the application;

(b) the applicant; and

(c) any other persons who he considers ought to be notified.

(5) The Regulator may direct the person specified in the application or the applicant to pay to—

(a) the other of those persons, or

(b) any other person directed to provide information under section 16D(7) above,

any such amount as he considers appropriate in respect of costs incurred in connection with the application.

16G Directions: compliance, variation and revocation.

(1) A person shall not be regarded as failing to comply with a direction under section 16A above if he has done everything which it is reasonably practicable to do in order to comply with the direction.

(2) If a person is unable to comply with such a direction because he does not have the necessary powers or rights (including rights over land), he shall not be taken to have done everything which it is reasonably practicable to do in order to comply with the direction unless he has done everything which it is reasonably practicable to do in order to obtain those powers or rights.

(3) A direction under section 16A above may only be revoked or varied by the Regulator—

(a) on the application of the person to whom the direction was given, the applicant for the direction or the Authority (if it was not the applicant); and

(b) after consultation with the other persons with power to apply for a revocation or variation.

(4) Such a direction may only be varied on an application by the applicant for the direction or the Authority if the Regulator is satisfied that the person to whom the direction was given will be adequately rewarded for providing, improving or developing the railway facility in accordance with the varied direction, taking into account (in particular) the matters specified in section 16E(2) above.

(5) The Regulator may grant an application for the variation or revocation of a direction under section 16A above by the applicant for the direction or the Authority on condition that he or it secures that any such compensation as the Regulator may specify is paid to the person to whom the direction was given in respect of any liabilities incurred, or other things done, by him in complying with the direction.

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16H Code of practice.

(1) The Regulator shall prepare, and from time to time revise, a code of practice supplementing sections 16A to 16G above and shall publish it in such manner as he considers appropriate.

(2) The Regulator shall have regard to the code of practice in the exercise of his functions under those sections.

(3) The code of practice may (in particular)—

(a) set out minimum periods to be specified in invitations to make representations;

(b) include provision about requesting the provision of information prior to giving a direction under section 16D(7) above;

(c) specify principles according to which directions to pay costs are to be given under section 16F(5) above; and

(d) make provision about the consultation required by section 16G(3)(b) above.

16I Supplementary.

(1) References in sections 16A to 16H above and this section to a railway facility include part of a railway facility.

(2) Nothing in any of those sections or a direction under section 16A above—

(a) limits any power of the Regulator under any other provision of this Act; or

(b) affects any obligation to provide a new railway facility, or to improve or develop an existing railway facility, arising otherwise than from such a direction.”

Commencement Information

I199 S. 223 in force at 15.10.2005 by S.I. 2005/2862, **art. 3**

Marginal Citations

M103 1993 c. 43.

Objectives of Regulator and Secretary of State

224 Amendment of objectives.

(1) Section 4 of the [M104]Railways Act 1993 (general duties of Regulator and Secretary of State) is amended as follows.

(2) In subsection (1) (objectives)—

(a) for “Secretary of State and the Regulator shall each” substitute “ Regulator shall ”,

[F105](b) . . . . . .

(c) after paragraph (b) insert—

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"(ba) to contribute to the development of an integrated system of transport of passengers and goods;

(bb) to contribute to the achievement of sustainable development;",

and

(d) in paragraph (d) (promotion of competition in provision of railway services), insert at the end " for the benefit of users of railway services ".

(3) In subsection (2) (objectives)—

(a) for "Secretary of State and the Regulator shall each" substitute " Regulator shall ", and

(b) omit "the Secretary of State or, as the case may be,".

(4) In subsection (3) (safety and the environment), for "Secretary of State and the Regulator shall each" substitute " Regulator shall ".

(5) After that subsection insert—

"(3A) Subsections (1) to (3) above shall have effect in relation to the Secretary of State as in relation to the Regulator, except that in their application to the Secretary of State—

(a) paragraph (za) of subsection (1) above shall be disregarded; and

(b) the references in each of the subsections to the functions transferred or assigned to the Secretary of State under or by virtue of this Part include only the functions transferred or assigned to him under or by virtue of sections 6 to 22 and 37 to 50 below."

(6) In subsection (5) (additional duties of Regulator), for paragraph (a) (duty until 31st December 1996 to take account of guidance of Secretary of State) substitute—

"(a) to have regard to any general guidance given to him by the Secretary of State about railway services or other matters relating to railways;".

(7) After subsection (7) insert—

"(7ZA) Any general guidance given by the Secretary of State to the Regulator about railway services or other matters relating to railways—

(a) shall be published by the Secretary of State in such manner as he considers appropriate; and

(b) may be varied or revoked."

Textual Amendments

F105 S. 224(2)(b) repealed (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.

Commencement Information

I200 S. 224 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M104 1993 c. 43.

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Enforcement regime

225 Penalties.

(1) In the [M105]Railways Act 1993, after section 57 insert—

"**57A Penalties.**

(1) If the appropriate authority is satisfied that a relevant operator has contravened or is contravening—
   (a) a relevant condition or requirement, or
   (b) a final or provisional order made by the appropriate authority,

   the appropriate authority may impose on the relevant operator a penalty of such amount as is reasonable.

(2) A penalty is payable to the Authority.

(3) The amount of a penalty imposed on a relevant operator may not exceed 10 per cent. of his turnover determined in accordance with an order made by the Secretary of State; and an order under this subsection shall not be made unless a draft of the statutory instrument containing it has been laid before and approved by a resolution of each House of Parliament.

(4) No penalty may be imposed in respect of any contravention of a final or provisional order if provision was made in the order by virtue of section 55(7A) above in relation to the contravention.

(5) The Authority shall not impose a penalty on a licence holder or person under closure restrictions unless—
   (a) it has given notice to the Regulator specifying a period within which he may give notice to it if he considers that the most appropriate way of proceeding is under the [M106]Competition Act 1998;
   (b) that period has expired; and
   (c) the Regulator has not given notice to the Authority within that period that he so considers (or, if he has, he has withdrawn it).

(6) The Regulator shall not impose a penalty if he is satisfied that the most appropriate way of proceeding is under the [M107]Competition Act 1998.

57B Statement of policy.

(1) The Authority and the Regulator shall each prepare and publish a statement of policy with respect to the imposition of penalties and the determination of their amount.

(2) A statement of policy may include provision for a decision whether to impose a penalty, or the determination of the amount of any penalty, in respect of the contravention of any relevant condition or requirement or order to be influenced by—
   (a) the desirability of securing compliance with that relevant condition or requirement or order;

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(b) the consequences or likely consequences of anything which has been or is being done or omitted to be done in contravention of that relevant condition or requirement or order; and

(c) the desirability of deterring contraventions of relevant conditions and requirements and final and provisional orders.

(3) In deciding whether to impose a penalty, and in determining the amount of any penalty, in respect of a contravention the Authority and Regulator shall have regard to any statement of its or his policy published at the time when the contravention occurred.

(4) The Authority and Regulator—

(a) may at any time alter or replace a statement of his or its policy; and

(b) shall publish the altered or replacement statement.

(5) The Authority and Regulator shall undertake appropriate consultation when preparing, altering or replacing a statement of policy.

(6) The Authority and Regulator shall publish a statement of policy in the manner that appears most suitable for bringing it to the attention of those likely to be affected by it.

(7) This section applies in relation to sums required to be paid by virtue of section 55(7A) above as to penalties, but as if—

(a) references to the imposition of penalties were to the inclusion in an order of a requirement to pay a sum;

(b) references to relevant conditions or requirements were omitted; and

(c) the reference in subsection (2)(b) above to anything which has been or is being done or omitted to be done included a reference to anything which is likely to be done or omitted to be done.

57C Procedural requirements for penalties.

(1) Before it imposes a penalty on a relevant operator, the appropriate authority shall give notice—

(a) stating that it proposes to impose a penalty on the relevant operator and the amount of the penalty proposed,

(b) setting out the relevant condition or requirement or order in question,

(c) specifying the acts or omissions which, in its opinion, constitute contraventions of that condition or requirement or order and the other facts which, in its opinion, justify the imposition of a penalty and the amount of the penalty proposed,

(d) specifying the manner in which, and place at which, it is proposed to require the penalty to be paid, and

(e) specifying the period (not being less than 21 days from the date of publication of the notice) within which representations or objections with respect to the proposed penalty may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(2) A notice under subsection (1) above shall be given—

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(a) by publishing the notice in such manner as the appropriate authority considers appropriate; and
(b) by serving a copy of the notice on the relevant operator.

(3) Where the Regulator serves a copy of a notice under subsection (1) above on a licence holder, he shall also serve a copy on the Authority; and where the Authority so serves a copy of such a notice, it shall also serve a copy on the Regulator.

(4) The appropriate authority shall not modify a proposal to impose a penalty except—
(a) with the consent of the relevant operator;
(b) where the modifications consist of a reduction of the amount of the penalty or a deferral of the date by which it is to be paid; or
(c) after complying with the requirements of subsection (5) below.

(5) The requirements mentioned in subsection (4)(c) above are that the appropriate authority shall—
(a) give to the relevant operator such notice as appears to it requisite of its modified proposal;
(b) unless the proposed modifications are trivial, in that notice specify a period (not being less than seven days from the date of service of the notice) within which representations or objections with respect to the proposed modifications may be made; and
(c) consider any representations or objections which are duly made and not withdrawn.

(6) As soon as practicable after imposing a penalty, the appropriate authority shall give notice—
(a) stating that it has imposed a penalty on the relevant operator and its amount;
(b) setting out the relevant condition or requirement or order in question;
(c) specifying the acts or omissions which, in its opinion, constitute contraventions of that condition or requirement or order and the other facts which, in its opinion, justify the imposition of the penalty and its amount;
(d) specifying the manner in which, and place at which, the penalty is to be paid; and
(e) specifying the date (not being less than fourteen days from the date of publication of the notice) by which the penalty is to be paid.

(7) A notice under subsection (6) above shall be given—
(a) by publishing the notice in such manner as the appropriate authority considers appropriate; and
(b) by serving a copy of the notice on the relevant operator.

(8) The relevant operator may, within 21 days of the date of service on him of the notice under subsection (6) above, make an application to the appropriate authority for it to specify different dates by which different portions of the penalty are to be paid.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

57D Time limits.

(1) No penalty may be imposed in respect of a contravention by a relevant operator—

(a) by virtue of paragraph (a) of subsection (1) of section 57A above in a case where no final or provisional order has been made in relation to the contravention, or

(b) by virtue of paragraph (b) of that subsection,

unless a copy of the notice relating to the penalty under section 57C(1) above is served on the relevant operator within two years of the time of the contravention.

(2) No penalty may be imposed in respect of a contravention by a relevant operator by virtue of section 57A(1)(a) above in a case where a final or provisional order has been made in relation to the contravention unless a copy of the notice relating to the penalty under section 57C(1) above is served on the relevant operator—

(a) within three months of the confirmation of the provisional order or the making of the final order; or

(b) where the provisional order is not confirmed, within six months of the making of the provisional order.

57E Interest and payment of instalments.

(1) If the whole or any part of a penalty is not paid by the date by which it is to be paid, the unpaid balance from time to time shall carry interest at the rate for the time being specified in section 17 of the [M108]Judgments Act 1838.

(2) If an application is made under subsection (8) of section 57C above in relation to a penalty, the penalty need not be paid until the application has been determined.

(3) If the appropriate authority grants an application under that subsection in relation to a penalty but any portion of the penalty is not paid by the date specified in relation to it by the appropriate authority under that subsection, so much of the penalty as has not already been paid is to be paid immediately.

57F Validity and effect of penalties.

(1) If the relevant operator to whom a penalty order relates is aggrieved by a penalty and desires to question its validity on the ground—

(a) that it was not within the powers of section 57A above,

(b) that any of the requirements of section 57C above have not been complied with in relation to it and his interests have been substantially prejudiced by the non-compliance, or

(c) that it was unreasonable of the appropriate authority not to grant an application under section 57C(8) above;

he may make an application to the court under this section.

(2) An application under this section by a person shall be made—

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(a) where it is on the ground mentioned in subsection (1)(c) above, within 42 days from the date on which he is notified of the decision not to grant the application under section 57C(8) above, and

(b) in any other case, within 42 days from the date of service on him of the notice under section 57C(6) above.

(3) If an application is made under this section in relation to a penalty, the penalty need not be paid until the application has been determined.

(4) On an application under this section on the ground mentioned in subsection (1)(a) or (b) above the court, if satisfied that the ground is established, may quash the penalty or (instead of quashing it) make provision under either or both of paragraphs (a) and (b) of subsection (5) below.

(5) The provision referred to in subsection (4) above is—

(a) provision substituting a penalty of such lesser amount as the court considers appropriate in all the circumstances of the case; and

(b) provision substituting as the date by which the penalty, or any portion of the penalty, is to be paid a date later than that specified in the notice under section 57C(6) above.

(6) On an application under this section on the ground mentioned in subsection (1)(c) above the court, if satisfied that the ground is established, may specify different dates by which different portions of the penalty are to be paid.

(7) Where the court substitutes a penalty of a lesser amount it may require the payment of interest on the substituted penalty at such rate, and from such date, as it determines; and where it specifies as the date by which the penalty, or a portion of the penalty, is to be paid a date before the determination of the application it may require the payment of interest on the penalty, or portion, from that date at such rate as it determines.

(8) Except as provided by this section, the validity of a penalty shall not be questioned by any legal proceedings whatever."

(2) In section 55 of that Act (orders for securing compliance), for subsection (8) substitute—

"(7A) The provision that may be made in a final or provisional order includes, in particular, provision requiring the relevant operator to pay to the Authority in the event of any specified contravention of the order such reasonable sum in respect of the contravention as is specified in, or determined in accordance with, the order in such manner, at such place and by such date as is so specified or determined.

(7B) The amount of the sum may not exceed 10 per cent. of the turnover of the relevant operator determined in accordance with an order made by the Secretary of State; and an order under this subsection shall not be made unless a draft of the statutory instrument containing it has been laid before and approved by a resolution of each House of Parliament.

(7C) If the whole or any part of the sum is not paid by the date by which it is to be paid, the unpaid balance from time to time shall carry interest at the rate for the time being specified in section 17 of the [M109]Judgments Act 1838."

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Commencement Information

I201 S. 225 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M105 1993 c. 43.
M106 1998 c. 41.
M107 1998 c. 41.
M108 1838 c. 110.
M109 1838 c. 110.

226 Orders for securing compliance.

(1) In section 55 of the [M110]Railways Act 1993 (orders for securing compliance)—

(a) in subsection (5) (cases where order shall not be made or confirmed) omit paragraphs (b) and (c),

(b) after subsection (5A) insert—

"(5B) If the appropriate authority is satisfied—

(a) that the relevant operator has agreed to take, and is taking, all such steps as it appears to the appropriate authority for the time being to be appropriate for the relevant operator to take for the purpose of securing or facilitating compliance with the condition or requirement in question, or

(b) that the contravention or apprehended contravention will not adversely affect the interests of users of railway services or lead to any increase in public expenditure,

it shall only make a final order, or make or confirm a provisional order, if it considers it appropriate to do so.",

[F106]...

[F106](c) . . . . . .

(2) In section 56 of that Act (procedural requirements about orders)—

(a) in subsection (1)(c) (requirement of at least 28 days' notice for making representations or objections to proposed final order or proposed confirmation of provisional order), for "28" substitute " 21 ",

(b) in subsection (4)(b) (requirement of at least 28 days' notice for making representations or objections to proposed modifications), for "in that notice specify the period (not being less than 28" substitute " unless the proposed modifications are trivial, in that notice specify a period (not being less than seven ", and

(c) in subsection (6)(b) (requirement of at least 28 days' notice for making representations or objections to proposal to revoke order), for "28" substitute " 21 ".

Textual Amendments

F106 S. 226(1)(c) and preceding word repealed (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.

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Commencement Information

I202 S. 226 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M110 1993 c. 43.

Consultative committees

227 Renaming of committees.

[F107](1) . . . . . .

(2) Schedule 22 makes amendments in consequence of subsection (1).

(3) References in private Acts, instruments made under Acts, other documents and legal proceedings to the Central Rail Users' Consultative Committee shall have effect as references to the Rail Passengers' Council [F108]... .

Textual Amendments

F107 S. 227(1) repealed (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.

F108 Words in s. 227(3) repealed (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.

Commencement Information

I203 S. 227 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

228 Extension of functions.

(1) **[**[F109]Section 76**]** of the [M111]Railways Act 1993 (duties of Central Committee and consultative committees) **[**[F109]is amended**]** as follows.

(2) In subsection (1) [F110]..., for paragraph (a) (duty to investigate any matter which relates to the provision of railway passenger services by the Board or a subsidiary, under a franchise agreement or on behalf of the Franchising Director) substitute—

"(a) to the provision of railway passenger services, or".

(3) In—

(a) subsection (5)(b) of section 76, [F111]...

[F111](b) . . . . . .

(matters to be referred), after "that" insert " a franchisee is contravening, or is likely to contravene, any term of the franchise agreement or that ".

(4) After subsection (7) of section 76 insert—

"(7A) It shall also be the duty of the Rail Passengers' Council, so far as it appears expedient from time to time to do so—

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(a) to keep under review matters affecting the interests of the public in relation to railway passenger services and station services;

(b) to make representations to, and consult, such persons as they think appropriate about those matters; and

(c) to co-operate with other bodies representing the interests of users of public passenger transport services.

(7B) The Secretary of State may, after consultation with the Rail Passengers' Council, make an order excluding services from the duties imposed by this section; and an order under this subsection—

(a) may exclude services of a particular class or description, particular services or services provided by a particular person;

(b) may provide that services are excluded subject to compliance with specified conditions; and

(c) may not revoke an exclusion except for breach of condition or in accordance with the order which made it.

(7C) The Secretary of State may, after consultation with the Rail Passengers' Council, make an order providing that the duties imposed by this section apply to services of a particular class or description, particular services or services provided by a particular person—

(a) only to such extent as is specified by the order; or

(b) with such modifications as are so specified."

F112(5) . . . . . .

Textual Amendments

F109 Words in s. 228(1) substituted (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 12 para. 17(3)**; S.I. 2005/1909, art. 2, Sch.

F110 Words in s. 228(2) repealed (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.

F111 S. 228(3)(b) and word repealed (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.

F112 S. 228(5) repealed (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.

Commencement Information

I204 S. 228 in force at 29.7.2003 by S.I. 2003/1694, **art. 2**

Marginal Citations

M111 1993 c. 43.

229 Financial and procedural changes.

Schedule 23 makes amendments of the provisions about the finances and procedures of consultative committees.

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Commencement Information

I205 S. 229 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Access agreements

230 Regulator's general approvals of access agreements etc.

(1) In subsection (1) of section 18 of the [M112]Railways Act 1993 (access contracts requiring approval of Regulator), after paragraph (b) insert "or

(c) the access contract is of a class or description specified in a general approval given by the Regulator;";

and for the words from "which is" to the end substitute " shall be void unless one of the conditions in paragraphs (a) to (c) above is satisfied. "

(2) After subsection (7) of that section insert—

"(7A) Where the Regulator gives or revokes a general approval under subsection (1)(c) above, he shall publish the approval or revocation in such manner as he considers appropriate.

(7B) The revocation of a general approval given under subsection (1)(c) above shall not affect the continuing validity of any access contract to which it applied."

(3) In subsection (3) of section 19 of that Act (installation access contracts requiring approval of Regulator), after paragraph (b) insert "or

(c) the installation access contract is of a class or description specified in a general approval given by the Regulator;";

and for the words from "which is" to the end substitute " shall be void unless one of the conditions in paragraphs (a) to (c) above is satisfied. "

(4) After subsection (5) of that section insert—

"(5A) Where the Regulator gives or revokes a general approval under subsection (3)(c) above, he shall publish the approval or revocation in such manner as he considers appropriate.

(5B) The revocation of a general approval given under subsection (3)(c) above shall not affect the continuing validity of any installation access contract to which it applied."

(5) In section 72(2)(b)(v) of that Act (provisions of general approvals under section 22(3) to be entered in register kept by Regulator), after "section" insert " 18(1)(c), 19(3)(c) or ".

(6) In section 83(1) of that Act (interpretation), in the definition of "access agreement"—

(a) in paragraph (a), for "entered into pursuant to directions under section 17 or 18" substitute " which satisfies one of the conditions in paragraphs (a) to (c) of section 18(1) ", and

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(b) in paragraph (b), for "entered into pursuant to directions under section 19" substitute " which satisfies one of the conditions in paragraphs (a) to (c) of section 19(3) ".

Commencement Information

I206 S. 230 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M112 1993 c. 43.

231 Review of access charges by Regulator.

(1) In the [M113]Railways Act 1993, after section 19 insert—

"**19A Review of access charges by Regulator.**

Schedule 4A to this Act (which contains provision about the review of access charges by the Regulator) shall have effect."

(2) After Schedule 4 to that Act insert, as Schedule 4A, the Schedule set out in Schedule 24 to this Act.

Marginal Citations

M113 1993 c. 43.

232 Amendment of access agreements.

(1) In subsection (1) of section 22 of the [M114]Railways Act 1993 (amendment of access agreement void unless approved by Regulator), insert at the end " or is made pursuant to directions under section 22A or 22C below or Schedule 4A to this Act. "

(2) After that section insert—

"**22A Directions to require amendment permitting more extensive use.**

(1) The Regulator may, on the application of the person permitted by an access agreement to use the whole or part of a railway facility or network installation, give directions requiring the parties to the access agreement to make to the agreement—

(a) amendments permitting more extensive use of the railway facility or network installation by the applicant; and

(b) any amendments which the Regulator considers necessary or desirable in consequence of those amendments.

(2) In subsection (1)(a) above "more extensive use" means—

(a) increased use for the purpose for which the applicant is permitted by the access agreement to use the railway facility or network installation, or

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(b) (in the case of a railway facility) use for any other permitted purpose,

and if the applicant is permitted to use only part of the railway facility or network installation, includes use for the purpose for which he is permitted to use it, or (in the case of a railway facility) for any other permitted purpose, of any other part of the railway facility or network installation.

(3) In subsection (2) above "permitted purpose", in relation to a railway facility, means a purpose for which directions may be given in relation to the railway facility under section 17 above.

(4) No directions shall be given under this section in relation to a railway facility if and to the extent that—

(a) the railway facility is, by virtue of section 20 above, an exempt facility; or

(b) performance of the access agreement as amended would necessarily involve the facility owner in being in breach of another access agreement or an international railway access contract.

(5) No directions shall be given under this section in relation to a railway facility or network installation if and to the extent that, as a result of an obligation or duty owed by the facility owner or installation owner which arose before the coming into force of section 17 or 19 above, the consent of some other person is required by him before he may make the amendments.

(6) Nothing in this section authorises the Regulator to give directions to any person requiring him to grant a lease of the whole or any part of a railway facility or network installation.

(7) In this section and section 22B below—

(a) "international railway access contract" and "lease" have the same meaning as in section 17 above; and

(b) "network installation" has the same meaning as in section 19 above.

22B Applications for directions under section 22A: procedure.

(1) Schedule 4 to this Act shall have effect with respect to applications for directions under section 22A above as it has effect with respect to applications for directions under section 17 above (but subject as follows).

(2) In its application by virtue of this section Schedule 4 to this Act has effect with the following modifications—

(a) in paragraph 1, in the definition of "the facility owner", for "17(1)" there shall be substituted "22A" and, in the definition of "interested person", for "enter into the required access contract" there shall be substituted "make the amendments";

(b) in paragraph 2(1), for "which the applicant proposes should be contained in the required access contract" and "to be contained in the required access contract" there shall be substituted "of the proposed amendments";

(c) in paragraph 5(2), for "to the facility owner requiring him to enter into an access contract" there shall be substituted "under section 22A of this Act";

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(d) for paragraph 5(2)(a)(i) and (ii) there shall be substituted "the amendments to be made and the date by which they are to be made; and";

(e) in paragraph 6(2), for the words from "facility owner's" to the end of paragraph (c) there shall be substituted "making of the amendments, the performance of the access agreement as amended or failing to take any step to protect the interests of the interested person in connection with the application for directions or the making of the amendments,"; and

(f) in paragraph 6(3), for "any access contract which is entered into" there shall be substituted "the amendments made";

and the definition of "the required access contract", and the words following that definition, in paragraph 1 and paragraph 5(4) shall be omitted.

(3) In its application by virtue of this section in relation to an application relating to an installation access contract Schedule 4 to this Act has effect with the following further modifications—

(a) references to the railway facility shall have effect as references to the network installation;

(b) references to the facility owner shall have effect as references to the installation owner; and

(c) in the definition of "interested person" in paragraph 1, for "17" there shall be substituted "19".

(4) The Regulator may determine that, in their application by virtue of this section in relation to any particular application, paragraphs 3 and 4 of Schedule 4 to this Act shall have effect as if for any of the numbers of days specified in them there were substituted the lower number specified by the Regulator.

22C Amendment: supplementary.

(1) The Regulator may give directions requiring the parties to an access agreement to make to the access agreement amendments which are, in his opinion, necessary to give effect to the conditions of a licence or otherwise required in consequence of the conditions of a licence.

(2) The Regulator shall not have power to direct or otherwise require amendments to be made to an access agreement except in accordance with section 22A above, subsection (1) above or Schedule 4A to this Act.

(3) If an access agreement includes provision for any of its terms to be varied—

(a) by agreement of the parties, or

(b) by direction or other requirement of the Regulator,

a variation made pursuant to that provision shall not be regarded for the purposes of section 22 above or subsection (2) above as an amendment of the agreement."

Commencement Information

I207 S. 232 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

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Marginal Citations
M114 1993 c. 43.

233 Prospective facility owners, proposed facilities etc.

(1) In section 17(6) of the [M115]Railways Act 1993 (directions requiring facility owners to enter into contracts for use of their railway facilities), in the definition of "facility owner", after paragraph (b) insert " but also includes a person before he becomes a facility owner; ".

(2) In section 19 of that Act (contracts for use of installations comprised in a network)—

(a) in subsection (9), in the definition of "installation owner", after paragraph (b) insert " but also includes a person before he becomes an installation owner; ", and

(b) in subsection (11), insert at the end " and to one which is proposed to be constructed or is in the course of construction. "

(3) In section 83 of that Act (interpretation of Part I), after subsection (1) insert—

"(1A) In sections 17 to 22C above (and Schedule 4 to this Act) references to a railway facility (including references to any track, station or light maintenance depot) or a network include references to a railway facility (or any track, station or light maintenance depot) or a network which is proposed to be constructed or is in the course of construction."

Commencement Information
I208 S. 233 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations
M115 1993 c. 43.

Closures

[F113]234 Transfer of Regulator's functions to Secretary of State.

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Textual Amendments
F113 Ss. 234-239 repealed (1.12.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2006/2911, art. 2, Sch.

[F113]235 Publication of proposed closures at stations.

. . . . . .

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F113 Ss. 234-239 repealed (1.12.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2006/2911, art. 2, Sch.

F113 236 Conditions.

. . . . . .

Textual Amendments

F113 Ss. 234-239 repealed (1.12.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2006/2911, art. 2, Sch.

F113 237 Closure of unnecessary track to be minor closure.

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Textual Amendments

F113 Ss. 234-239 repealed (1.12.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2006/2911, art. 2, Sch.

F113 238 General determinations of minor closures.

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Textual Amendments

F113 Ss. 234-239 repealed (1.12.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2006/2911, art. 2, Sch.

F113 239 Operator's duty to continue.

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Textual Amendments

F113 Ss. 234-239 repealed (1.12.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2006/2911, art. 2, Sch.

The Board

240 Transfer of Board's property etc. to Secretary of State.

Schedule 25 makes provision for the transfer to the Secretary of State of property, rights and liabilities of the Board.

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Commencement Information

I209 S. 240 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

241 Winding down and abolition of Board.

(1) Section 84 of the [M116]Railways Act 1993 (power of Board to form companies) shall apply as if facilitating the carrying into effect of, or of any provision made under, sections 217, 218 and 240 and Schedules 18, 19 and 25 were a purpose specified by the Secretary of State under subsection (1)(d) of that section; and section 85 of that Act (power of Board to make transfer schemes) shall apply as if that were a purpose specified in subsection (3)(b) of that section.

(2) The Board shall give to the Authority any information, prepare any document and do any other thing which appears to the Authority appropriate for facilitating the carrying into effect of, or of any provision made under, sections 217, 218 and 240 and Schedules 18, 19 and 25.

(3) The Secretary of State may—

(a) by order made by statutory instrument reduce the membership of the Board to a chairman and one or more other persons appointed by the Secretary of State, and

(b) by notice in writing remove from office any member of the Board or vary the terms of his appointment.

(4) When, after consulting the Board, the Secretary of State considers that it is no longer necessary for the Board to continue to exist, he shall by order made by statutory instrument provide for its dissolution.

(5) If a person ceases to hold office as chairman or a member of the Board by virtue of subsection (3)(b) or (4) before his term of office would otherwise have expired and the Secretary of State determines that there are special circumstances which make it right that the person should receive compensation—

(a) if the person ceases to hold office by virtue of subsection (3)(b), the Board, and

(b) if the person ceases to hold office by virtue of subsection (4), the Secretary of State,

shall pay to the person such compensation as may be determined by the Secretary of State.

(6) Where an order under subsection (4) provides for the Board to be dissolved with effect from a time which would not, apart from this subsection, be the end of its financial year, the financial year of the Board which is current at that time shall be deemed to end with its dissolution.

(7) An order under subsection (4) which so provides may contain such provision as the Secretary of State considers appropriate (including provision modifying the effect of any enactment) for the Board or the Authority—

(a) to prepare accounts for the final financial year of the Board, and

(b) to make and lay before Parliament a report relating to the carrying out of the Board's functions during that financial year.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

Marginal Citations
M116 1993 c. 43.

Competition

242 Licence modifications following Competition Commission report.

(1) In section 15 of the Railways Act 1993 (modification of licence conditions following report of Competition Commission), after subsection (4) insert—

"(4A) Where (after considering any representations or objections which are duly made and not withdrawn) the Regulator or Authority proposes to make or require the making of modifications under this section, he or it shall give notice to the Competition Commission—

(a) setting out the modifications he proposes to make or it proposes to require to be made; and

(b) stating the reasons why he proposes to make the modifications or it proposes to require the making of them.

(4B) The Regulator or Authority shall include with the notice under subsection (4A) above a copy of any representations and objections which have been considered.

(4C) If the period within which a direction may be given by the Competition Commission under section 15A below expires without such a direction being given, the Regulator or Authority shall make, or require the making of, the modifications set out in the notice given under subsection (4A) above.

(4D) If a direction is given by the Competition Commission under section 15A(1)(b) below, the Regulator or Authority shall make, or require the making of, such of those modifications as are not specified in the direction."

(2) After that section insert—

"**15A Competition Commission's power to veto modifications following report.**

(1) The Competition Commission may, within the period of four weeks beginning with the day on which they are given notice under section 15(4A) above, give a direction to the Regulator or Authority—

(a) not to make, or require the making of, the modifications set out in the notice; or

(b) not to make such of those modifications as are specified in the direction.

(2) The Secretary of State may, if an application is made to him by the Competition Commission within that period of four weeks, extend the period within which a direction may be given under this section to one of six weeks beginning with the day on which the Competition Commission are given notice under section 15(4A) above.

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(3) The Competition Commission may give a direction under this section only if the modifications to which it relates do not appear to them requisite for the purpose of remedying or preventing the adverse effects specified in their report on the reference under section 13 above.

(4) If the Competition Commission give a direction under this section, they shall give notice—
   (a) setting out the modifications contained in the notice given under section 15(4A) above;
   (b) setting out the direction; and
   (c) stating the reasons why they are giving the direction.

(5) A notice under subsection (4) above shall be given—
   (a) by publishing the notice in such manner as the Competition Commission consider appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by the direction; and
   (b) by serving a copy of the notice on the holder of the licence.

15B Making of modifications by Competition Commission.

(1) If the Competition Commission give a direction under section 15A above, they shall themselves make such modifications of the conditions of the licence as appear to them requisite for the purpose of remedying or preventing—
   (a) the adverse effects specified in their report on the reference under section 13 above; or
   (b) such of those adverse effects as would not be remedied or prevented by the modifications made by the Regulator, or required to be made by the Authority, under section 15(4D) above.

(2) In exercising the function conferred by subsection (1) above, the Competition Commission shall have regard to the matters as respects which duties are imposed on the Regulator by section 4 above.

(3) Before making modifications under this section, the Competition Commission shall give notice—
   (a) stating that they propose to make the modifications and setting out their effect,
   (b) stating the reasons why they propose to make the modifications, and
   (c) specifying the period (not being less than 28 days from the date of publication of the notice) within which representations or objections may be made,

   and shall consider any representations or objections which are duly made and not withdrawn.

(4) A notice under subsection (3) above shall be given—
   (a) by publishing the notice in such manner as the Competition Commission consider appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by the making of the modifications; and
   (b) by serving a copy of the notice on the holder of the licence.

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(5) As soon as practicable after making any modifications under this section, the Competition Commission shall send a copy of those modifications to the Regulator, the Authority and the Health and Safety Executive.

15C Sections 15A and 15B: supplementary.

(1) The provisions mentioned in subsection (2) below are to apply in relation to the exercise by the Competition Commission of their functions under sections 15A and 15B above as if—

(a) in section 82(1) and (2) of the 1973 Act references to a report of the Competition Commission under that Act were references to a notice under section 15A(4) or 15B(3) above;

(b) in section 85 of that Act references to an investigation on a reference made to the Competition Commission were references to an investigation by the Competition Commission for the purposes of the exercise of their functions under those sections; and

(c) in section 93B of that Act references to the functions of the Competition Commission under that Act were references to their functions under those sections.

(2) The provisions are—

(a) sections 82(1) and (2) (general provisions as to reports), 85 (attendance of witnesses and production of documents) and 93B (false or misleading information) of the 1973 Act;

(b) Part II of Schedule 7 to the [M117]Competition Act 1998 (performance of the Competition Commission's general functions); and

(c) section 24 of the 1980 Act (modification of provisions about performance of such functions).

(3) For the purpose of assisting the Competition Commission in exercising their functions under sections 15A and 15B above, the Regulator and the Authority shall give to the Competition Commission any information in his or its possession which relates to matters relevant to the exercise of those functions and—

(a) is requested by the Competition Commission for that purpose; or

(b) is information which, in his or its opinion, it would be appropriate for that purpose to give to the Competition Commission without any such request;

and any other assistance which the Competition Commission may require, and which it is within his or its power to give, in relation to any such matters.

(4) For the purpose of exercising those functions, the Competition Commission shall take account of any information given to them for that purpose under subsection (3) above."

Commencement Information

I210 S. 242 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

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Marginal Citations
M117 1998 c. 41.

243 Competition functions of Regulator.

(1) Section 67 of the [M118]Railways Act 1993 (functions of Regulator and Director General of Fair Trading) is amended as follows.

(2) In subsection (3) (concurrent exercise by Regulator and Director of functions under Part I of Competition Act 1998 so far as relating to agreements etc. which relate to supply of railway services), for "railway services" substitute " services relating to railways ".

(3) After that subsection insert—

"(3ZA) In subsection (3) above "services relating to railways" means—

(a) railway services;

(b) the provision or maintenance of rolling stock;

(c) the development, maintenance or renewal of a network, station or light maintenance depot; and

(d) the development, provision or maintenance of information systems designed wholly or mainly for facilitating the provision of railway services.

(3ZB) The Secretary of State may by order amend subsection (3ZA) above; and an order under this subsection shall not be made unless a draft of the statutory instrument containing it has been laid before and approved by a resolution of each House of Parliament."

Commencement Information
I211 S. 243 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations
M118 1993 c. 43.

Pensions

244 Authority's duty to continue Board's practice of indexation.

(1) The Authority shall make provision for increases in pensions and capital sums to which this section applies broadly corresponding to each increase in official pensions under the [M119]Pensions (Increase) Act 1971 and section 59 of the [M120]Social Security Pensions Act 1975 ("an official pensions increase").

(2) This section applies to a pension or capital sum at any time if—

(a) at that time it is a pension in payment, a deferred pension or capital sum or a pension or capital sum to which a person's future entitlement is contingent on the death of another person, and

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(b) the Board either made provision for an increase in it broadly corresponding to an official pensions increase or would have done so if it had been within paragraph (a) at a time when the Board made provision for increases broadly corresponding to an official pensions increase.

(3) But where it was the practice of the Board, when making increases broadly corresponding to an official pensions increase, in any circumstances—

(a) not to make provision for an increase, or

(b) to make provision for an increase of a reduced amount,

subsection (1) does not require the Authority to make in similar circumstances provision for an increase in excess of any for which the Board would have made provision.

Modifications etc. (not altering text)

C32 S. 244: power to modify conferred (8.6.2005) by Railways Act 2005 (c. 14), **ss. 1(8)**, 60(2); S.I. 2005/1444, art. 2(1), Sch. 1

Commencement Information

I212 S. 244 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M119 1971 c. 56.

M120 1975 c. 60.

245 Amendments of pension protection provisions.

(1) In paragraph 6(2)(a)(ii) of Schedule 11 to the [M121]Railways Act 1993 (power to make order providing for pension rights of protected persons to be no less favourable as a result of a transfer of pension rights), after "rights" insert " (whether made between occupational pension schemes or sections of an occupational pension scheme or otherwise) ".

(2) The [M122]Railway Pensions (Protection and Designation of Schemes) Order 1994 is amended as follows.

(3) In article 6 (transfers etc.), insert at the end—

"(9) In paragraphs (2), (3), (5), (7)(a) and (b)(i) and (8) references to an occupational pension scheme include a section of such a scheme."

(4) In article 7(4) (payments on transfers), insert at the end (but not as part of sub-paragraph (b))—

"and in this paragraph references to an occupational pension scheme include a section of such a scheme."

(5) In article 9 (circumstances in which breaks in continuity of employment are disregarded)—

(a) in paragraph (2), omit ", except to the extent specified in paragraph (3)," and "relevant" (in both places), and

(b) in paragraph (3), for "this article" substitute " paragraph (1) ".

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(6) In article 11(4) (activities to be regarded as the railway industry)—

(a) after "of Schedule 11 are" insert " the activities of the Authority or any subsidiary of the Authority and activities consisting of ", and

(b) for "in each case" substitute " in each of the cases in sub-paragraphs (a) to (d) ".

(7) Omit paragraphs 13 and 14 (arbitration).

(8) The amendments made by subsections (3) to (7) shall be treated as if made by an order made under Schedule 11 to the [M123]Railways Act 1993 (and, accordingly, may be varied or revoked by an order so made).

Commencement Information

I213 S.245 wholly in force at 1.2.2001: S.245(1)(3)-(5) in force retrospectively at 10.05.2000; S.245(2)(8) so far as relating to (3)-(5) in force retrospectively at 10.05.2000, otherwise S. 245 not in force, see S.275(5). S. 245 in force at 1.2.2001 in so far as not already in force by S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M121 1993 c. 43.
M122 S.I. 1994/1432.
M123 1993 c. 43.

Miscellaneous

246 Passenger Transport Executives.

(1) Section 34 of the [M124]Railways Act 1993 (Passenger Transport Authorities and Executives: franchising) is amended as follows.

(2) After subsection (8) insert—

"(8A) The Authority shall not do anything under subsection (8) above if or to the extent that to do it would prevent or seriously hinder the Authority—

(a) from complying with any directions given to it by the Secretary of State under section 207(5) of the Transport Act 2000 or from having regard to any guidance so given;

(b) from complying with any directions given to it by the Scottish Ministers under section 208 of that Act with which it must comply or from having regard to any guidance so given to which it must have regard; or

(c) from exercising any of its functions in a manner which is consistent with its financial framework.

(8B) The Authority need not do anything under subsection (8) above if or to the extent that to do it would have an adverse effect on the provision of services for the carriage of passengers or goods by railway (whether inside or outside the Passenger Transport Executive's passenger transport area).

(8C) The Authority need not do anything under subsection (8) above if or to the extent that to do it would increase the amount of any expenditure of the

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Authority under agreements or other arrangements entered into (in accordance with a franchise agreement) with—

(a) the franchise operator;

(b) the franchisee; or

(c) any servant, agent or independent contractor of the franchise operator or franchisee."

(3) In subsection (17) (disputes between Authority and Passenger Transport Executives: directions by Secretary of State), for "with respect to the dispute" substitute " with respect to the proposal or franchise agreement ".

Commencement Information

I214 S. 246 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M124 1993 c. 43.

247 Standards.

(1) The Secretary of State may by regulations make provision for the setting of standards to be complied with in relation to railway assets, railway vehicles or railway services.

(2) The regulations may provide—

(a) for standards to be set (and from time to time varied), or

(b) for compliance with standards to be monitored,

by persons specified in, or designated in accordance with, the regulations.

(3) The regulations may authorise the setting of standards which involve obtaining the approval of any person.

(4) The regulations may authorise the charging of fees in respect of—

(a) the monitoring of compliance with standards, or

(b) the seeking of approvals in connection with standards.

(5) The regulations may impose requirements to provide information on persons who—

(a) are required to comply with standards, or

(b) set, or monitor compliance with, standards,

and prohibit the giving of false information.

(6) The regulations may create criminal offences in respect of failures to comply with requirements imposed by the regulations.

(7) The regulations may provide for such offences to be triable—

(a) only summarily, or

(b) either summarily or on indictment.

(8) The regulations may provide for an offence triable only summarily to be punishable on conviction with a fine not exceeding—

(a) level 5 on the standard scale, or

(b) such lower amount as may be prescribed.

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(9) The regulations may provide for an offence triable either summarily or on indictment to be punishable—

(a) on summary conviction, with a fine not exceeding the statutory maximum or such lower amount as may be prescribed, or

(b) on conviction on indictment, with a fine.

(10) The regulations may make different provision for different cases and may (in particular) include provision—

(a) authorising conditional or unconditional dispensation from requirements imposed by the regulations which would otherwise apply, or

(b) requiring compliance with requirements so imposed which would not otherwise apply,

in particular cases or descriptions of case.

(11) The regulations may include such incidental, consequential, supplementary or transitional provisions or savings as the Secretary of State may consider appropriate, including (in particular) provision modifying any provision made by or under any other enactment.

(12) The regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

I215 S. 247 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

248 Substitute services to be suitable for disabled passengers.

(1) This section applies where—

(a) a person who provides services for the carriage of passengers by railway provides or secures the provision of substitute road services, or

[[F114](b) the provision of such services is secured by the Secretary of State, the Scottish Ministers or the National Assembly for Wales.**]**

(2) **[**[F115]In providing or securing the provision of the services, the person providing them, the Secretary of State, the Scottish Ministers or the National Assembly for Wales**]** shall ensure, so far as is reasonably practicable, that the substitute road services allow disabled passengers to undertake their journeys safely and in reasonable comfort.

(3) In the event of any failure by **[**[F116]a person**]** to comply with subsection (2), he [F117]... shall be liable to pay damages in respect of any expenditure reasonably incurred, or other loss sustained, by a disabled passenger in consequence of the failure.

(4) The Secretary of State may by order grant exemption from subsection (2) to—

(a) any class or description of persons who provide services for the carriage of passengers by railway, or

(b) any particular person who provides such services,

in respect of all substitute road services or any class or description of such services.

(5) Before making an order under subsection (4) the Secretary of State shall consult—

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(a) the Disabled Persons Transport Advisory Committee, and
(b) such other representative organisations as he thinks fit.

(6) An order under subsection (4) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section "substitute road services" means services for the carriage of passengers by road which are provided where railway services have been temporarily interrupted or discontinued.

(8) For the purposes of this section a passenger is disabled if he has a disability, or has suffered an injury, which seriously impairs his ability to walk.

Textual Amendments

F114 S. 248(1)(b) substituted (1.8.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 12 para. 17(4)**; S.I. 2006/1951, art. 2(2)(i)

F115 Words in s. 248(2) substituted (1.8.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 12 para. 17(5)**; S.I. 2006/1951, art. 2(2)(i)

F116 Words in s. 248(3) substituted (1.8.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 12 para. 17(6)(a)**; S.I. 2006/1951, art. 2(2)(i)

F117 Words in s. 248(3) repealed (1.8.2006) by Railways Act 2005 (c. 14), s. 60(2), Sch. 12 para. 17(6)(b), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2006/1951, art. 2(2)(i)

Commencement Information

I216 S. 248 in force at 1.10.2006 by S.I. 2006/1933, **art. 2**

F118 249 Freight assistance by Scottish Ministers and Welsh Assembly.

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Textual Amendments

F118 S. 249 repealed (1.12.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2006/2911, art. 2, Sch.

250 Taxation of transfers.

Schedule 26 contains provisions about tax.

F119 251 Abolition of requirements for Treasury approval.

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Textual Amendments

F119 S. 251 repealed (24.7.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2005/1909, art. 2, Sch.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
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CHAPTER III

SUPPLEMENTARY

252 Part IV: minor and consequential amendments.

Schedule 27 makes minor and consequential amendments relating to railways.

Commencement Information

I217 S. 252 partly in force; S.252 not in force at Royal Assent see. S. 275(1)(2); s. 252 in force (15.1.2001 for specified purposes) by S.I. 2000/3376, **art. 2**; s. 252 in force at 1.2.2001 for further specified purposes by S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

253 Part IV: transitionals and savings.

Schedule 28 makes transitional provisions and savings relating to this Part.

254 Interpretation of Part IV.

Expressions which are used both in this Part and in the Railways Act 1993 and are given a meaning for the purposes of that Act, or Part I of that Act, have the same meaning in this Part.

PART V

MISCELLANEOUS AND SUPPLEMENTARY

Charges for street works on highway

255 Charge for whole duration of works.

(1) In the [M125]New Roads and Street Works Act 1991, after section 74 insert—

"74A Charge determined by reference to duration of works.

(1) The Secretary of State may make provision by regulations requiring an undertaker executing street works in a maintainable highway to pay to the highway authority a charge determined, in the prescribed manner, by reference to the duration of the works.

(2) The regulations shall not require charges to be paid to a local highway authority unless the Secretary of State has approved it for the purposes of the regulations by order made by statutory instrument.

(3) The regulations may prescribe exemptions from the requirement to pay charges.

(4) The regulations may prescribe different rates of charge according to—

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(a) the extent to which the surface of the highway is affected by the works,
(b) the place and time at which the works are executed, and
(c) such other factors as appear to the Secretary of State to be relevant.

(5) The regulations may—
(a) prescribe more than one rate of charge in respect of the same description of works, and
(b) provide that charges are to be paid in respect of any works of that description at the rate which appears to the highway authority to be appropriate in relation to those works.

(6) The regulations may make provision for the determination of the duration of works for the purposes of the regulations.

(7) And they may, in particular, make provision for works to be treated as beginning or ending on the giving of, or as stated in, a notice given by the undertaker to the highway authority, in the prescribed manner, in accordance with a requirement imposed by the regulations.

(8) The regulations may make provision as to the time and manner of making payment of charges.

(9) The regulations shall provide that a highway authority may reduce the amount, or waive payment, of a charge—
(a) in any particular case,
(b) in such classes of case as they may decide or as may be prescribed, or
(c) in all cases or in all cases other than a particular case or such class of case as they may decide or as may be prescribed.

(10) The regulations may make provision as to—
(a) the application by local highway authorities of sums paid by way of charges, and
(b) the keeping of accounts, and the preparation and publication of statements of account, relating to sums paid by way of charges.

(11) The regulations may create in respect of any failure to give a notice required by the regulations a criminal offence triable summarily and punishable with a fine not exceeding level 3 on the standard scale.

(12) The regulations may require disputes of any prescribed description to be referred to an arbitrator appointed in accordance with the regulations.

(13) The first regulations under this section shall not be made unless a draft of them has been laid before and approved by a resolution of each House of Parliament; subsequent regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

74B Regulations under sections 74 and 74A.

Nothing shall be taken to prevent the imposition of charges by both regulations under sections 74 and regulations under section 74A in respect of the execution of the same works at the same time.”

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(2) The reference to the [M126]New Roads and Street Works Act 1991 in Schedule 1 to the [M127]National Assembly for Wales (Transfer of Functions) Order 1999 is to be treated as referring to that Act as amended by this section and section 256.

Commencement Information

I218 S. 255 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M125 1991 c. 22.
M126 1991 c. 22.
M127 S.I. 1999/672.

256 Charges where works unreasonably prolonged.

(1) Section 74 of the [M128]New Roads and Street Works Act 1991 (charges where works unreasonably prolonged) is amended as follows.

(2) After subsection (2) insert—

"(2A) The regulations may prescribe exemptions from the requirement to pay charges."

(3) In subsection (3)—

(a) for "may submit to the authority" substitute " shall give to the authority, in such manner as may be prescribed, notice containing ", and

(b) for "so submitted" substitute " contained in a notice given to an authority in such manner ".

(4) In subsection (4), for "may submit" substitute " shall give to the authority, in such manner as may be prescribed, notice containing ".

(5) After subsection (5) insert—

"(5A) The regulations may—

(a) prescribe more than one rate of charge in respect of the same description of works, and

(b) provide that charges are to be paid in respect of any works of that description at the rate which appears to the highway authority to be appropriate in relation to those works.

(5B) The regulations may make provision for the determination of the duration of works for the purposes of the regulations.

(5C) And they may, in particular, make provision for works to be treated as beginning or ending on the giving of, or as stated in, a notice given by the undertaker to the highway authority, in the prescribed manner, in accordance with a requirement imposed by the regulations."

(6) In subsection (7), for the words from "charge" to the end substitute "charges

(a) in any particular case,

(b) in such classes of case as they may decide or as may be prescribed, or

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

(c) in all cases or in all cases other than a particular case or such class of case as they may decide or as may be prescribed."

(7) After that subsection insert—

"(7A) The regulations may make provision as to—

(a) the application by local highway authorities of sums paid by way of charges, and

(b) the keeping of accounts, and the preparation and publication of statements of account, relating to sums paid by way of charges.

(7B) The regulations may create in respect of any failure to give a notice required by the regulations a criminal offence triable summarily and punishable with a fine not exceeding level 3 on the standard scale."

Commencement Information

I219 S. 256 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M128 1991 c. 22.

Driver training and driving instructors

257 Compulsory driver training courses.

In the [M129]Road Traffic Act 1988, after section 99 insert—

" Driver training

99ZA Compulsory driver training courses.

Regulations may make provision about training in the driving of motor vehicles by means of courses provided in accordance with the regulations ("driver training courses").

99ZB Requirements to complete training courses.

(1) Regulations under section 99ZA of this Act may provide that persons who have not successfully completed a driver training course—

(a) may not take a test of competence to drive motor vehicles of a prescribed class (or a prescribed part of such a test),

(b) are not authorised to drive motor vehicles of a prescribed class (before having passed a test of competence to drive them) by a provisional licence (or by section 98(2) or 99A(5) of this Act),

(c) are not granted a licence authorising the driving of motor vehicles of a prescribed class by virtue of regulations under section 89(6)(b) or (c) of this Act, or

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Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

(d) are not authorised to drive motor vehicles of a prescribed class in prescribed circumstances (despite having passed a test of competence to drive them).

(2) But a person is exempt from provision made by virtue of subsection (1)(b), (c) or (d) above if he is undergoing training on a driver training course and is driving a motor vehicle as part of the training.

(3) And regulations under section 99ZA of this Act may include provision exempting persons from any provision made by virtue of subsection (1) above in other circumstances; and regulations including such provision may (in particular)—

(a) limit an exemption to persons in prescribed circumstances,

(b) limit an exemption to a prescribed period or in respect of driving in a prescribed area,

(c) attach conditions to an exemption, and

(d) regulate applications for an exemption.

(4) Regulations under section 99ZA of this Act may include provision for the evidencing by a person of his being within—

(a) the exemption specified in subsection (2) above, or

(b) any exemption provided by virtue of subsection (3) above.

(5) Regulations under section 99ZA of this Act may provide that a driver training course is not to be taken into account for the purposes of the regulations if it was completed before such time as is prescribed.

99ZC Driver training courses: supplementary.

(1) Regulations under section 99ZA of this Act may include—

(a) provision about the nature of driver training courses,

(b) provision for the approval by the Secretary of State of persons providing such courses and the withdrawal of approvals (including provision for appeals against refusal and withdrawal of approvals) and provision for exemptions from any requirement of approval,

(c) provision for the training or assessment, or the supervision of the training or assessment, of persons providing driver training courses,

(d) provision setting the maximum amount of any charges payable by persons undergoing such courses, and

(e) provision for the evidencing of the successful completion of such courses.

(2) Such regulations may include provision for the charging of reasonable fees in respect of the exercise of any function conferred or imposed on the Secretary of State by such regulations.

(3) Such regulations may make different provision—

(a) for different classes of motor vehicles,

(b) for different descriptions of persons, or

(c) otherwise for different circumstances.”

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

Commencement Information

I220 S. 257 wholly in force at 1.5.2002; s. 257 not in force at Royal Assent, see s. 275(1)(2); s. 257 in force at 1.5.2002 by S.I. 2002/1014, art. 2(2), **Sch. Pt. 2** (with transitional provisions in art. 3)

Marginal Citations

M129 1988 c. 52.

258 Register of approved instructors: destination of appeals.

(1) Section 131 of the [M130]Road Traffic Act 1988 (appeals to Secretary of State by persons aggrieved by decision of registrar of approved driving instructors) is amended as follows.

(2) In subsections (1) and (2), for "Secretary of State" substitute " Transport Tribunal ".

(3) In subsection (3)—

(a) for "Secretary of State" substitute " Transport Tribunal ", and

(b) for "he thinks" substitute " they think ".

(4) After subsection (4) insert—

"(4A) If the Tribunal consider that any evidence adduced on an appeal had not been adduced to the Registrar before he gave the decision to which the appeal relates, they may (instead of making an order under subsection (3) above) remit the matter to the Registrar for him to reconsider the decision."

Marginal Citations

M130 1988 c. 52.

259 Taking effect of decisions about instructors.

(1) In section 127 of the [M131]Road Traffic Act 1988 (application to retain name in register of approved instructors), after subsection (7) insert—

"(7A) A decision to refuse an application shall take effect at the end of the period of fourteen days beginning with the day on which notice of the decision is given (or, if any appeal brought against the decision under the following provisions of this Part of this Act is previously withdrawn or dismissed, when the appeal is withdrawn or dismissed).",

and, in subsection (8), for "A decision to refuse an application shall" substitute " But the Registrar may, when giving notice of his decision to refuse the application, direct that the decision shall instead ".

(2) In section 128 of that Act (removal of name from register), after subsection (6) insert—

"(6A) A decision to remove a name from the register shall take effect at the end of the period of fourteen days beginning with the day on which notice of the decision is given (or, if any appeal brought against the decision under the following provisions of this Part of this Act is previously withdrawn or dismissed, when the appeal is withdrawn or dismissed).",

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and, in subsection (7), for "A decision to remove a name from the register shall" substitute " But the Registrar may, when giving notice of his decision to remove the name from the register, direct that the decision shall instead ".

(3) In section 130 of that Act (revocation of licence for giving instruction in order to obtain practical experience), for subsection (6) substitute—

"(5A) A decision to revoke a licence shall take effect at the end of the period of fourteen days beginning with the day on which notice of the decision is given (or, if any appeal brought against the decision under the following provisions of this Part of this Act is previously withdrawn or dismissed, when the appeal is withdrawn or dismissed).

(6) But the Registrar may, when giving notice of his decision to revoke a licence, direct that (if an appeal under the following provisions of this Part of this Act is brought against the decision) it shall instead take effect—

(a) if the appeal is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal, or

(b) if and when the appeal is dismissed, and not otherwise."

(4) In section 131 of that Act (appeals against decisions of registrar), after subsection (4A) (inserted by section 258) insert—

"(4B) A person who is aggrieved by a decision of the Registrar not to give a direction under section 127(8), 128(7) or 130(6) of this Act may by notice in writing appeal to the Transport Tribunal within the period of ten days beginning with the day on which notice of the decision is given.

(4C) The Transport Tribunal shall determine the appeal by either—

(a) giving the direction concerned, or

(b) dismissing the appeal,

within the period of fourteen days beginning with the day on which notice of the decision is given.

(4D) Where the Registrar has decided to refuse an application for the retention of a name in the register, to remove a name from the register or to revoke a licence granted under section 129 of this Act but either—

(a) he gave a direction under section 127(8), 128(7) or 130(6) of this Act, or

(b) the Transport Tribunal have given such a direction on appeal,

he may by notice in writing apply to the Transport Tribunal for an order that the decision is to take effect immediately.

(4E) The Transport Tribunal shall determine the Registrar's application by either granting or refusing the application, within the period of fourteen days beginning with the day on which it is made.

(4F) The Transport Tribunal may only grant the application if they consider that a failure to do so might prejudicially affect—

(a) the well-being of any person to whom the person concerned may give instruction in the driving of a motor car, or

(b) the safety of road users."

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Marginal Citations
M131 1988 c. 52.

260 Training and instructors: minor and consequential amendments.

Schedule 29 makes minor and consequential amendments about driver training and driving instructors.

Commencement Information
I221 S. 260 partly in force; s. 260 not in force at Royal Assent see s. 275; s. 260 in force for certain purposes at 1.4.2002 by S.I. 2002/658, art. 2(2), **Sch. Pt. 2** (with transitional provision in art. 3)

Licensing of operators of goods vehicles

261 Increase of fine for breach of obligation to hold operator's licence.

(1) In section 2(5) of the [M132]Goods Vehicles (Licensing of Operators) Act 1995 (obligation to hold operator's licence: penalty for offence), for "level 4" substitute " level 5 ".

(2) Subsection (1) does not apply to any offence committed before this section comes into force.

Commencement Information
I222 S. 261 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations
M132 1995 c. 23.

262 Detention of vehicle used without operator's licence.

(1) In the [M133]Goods Vehicles (Licensing of Operators) Act 1995, after section 2 insert—

"**2A Detention of vehicle used without operator's licence.**

Schedule 1A (which relates to the detention, removal and disposal of goods vehicles in respect of which it appears that section 2 is contravened) shall have effect."

(2) After Schedule 1 to that Act insert, as Schedule 1A, the Schedule set out in Schedule 30 to this Act.

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Commencement Information

I223 S. 262 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M133 1995 c. 23.

PROSPECTIVE

263 Addition of specified vehicles to operator's licence.

In section 5 of the [M134]Goods Vehicles (Licensing of Operators) Act 1995 (vehicles authorised to be used under operator's licence), for subsection (6) substitute—

"(6) A motor vehicle which is not specified in an operator's licence is not authorised to be used under that licence by virtue of subsection (1) **[**[F120]on or after the relevant day**]** unless the licence-holder—

(a) has given to **[**[F121]a traffic commissioner**]** a notice in such form and containing such information about the vehicle as **[**[F121]is required by a traffic commissioner**]**, and

[[F121](b) has paid the prescribed fee (if any) to a traffic commissioner.

[[F122](6A) For the purposes of subsection (6) "the relevant day" is the latest of the following days—

(a) the day on which the vehicle was first in the lawful possession of the licence holder,

(b) the day on which the licence came into force,

(c) if a day not more than one month after the later of those days is prescribed for the purpose, the day so prescribed."**]]**

Textual Amendments

F120 Words in s. 263 inserted (9.2.2009) by Local Transport Act 2008 (c. 26), **ss. 125(3)(a)**, 134(4); S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1

F121 Words in s. 263 substituted (3.7.2013) by The Local Transport Act 2008 (Traffic Commissioners) (Consequential Amendments) Order 2013 (S.I. 2013/1644), art. 1(1), **Sch. 1** (with arts. 1(3), 2, 7)

F122 Words in s. 263 inserted (9.2.2009) by Local Transport Act 2008 (c. 26), **ss. 125(4)**, 134(4); S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1

Marginal Citations

M134 1995 c. 23.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
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Type approvals: exemptions

264 Type approval: individual exemptions.

In section 63 of the [M135]Road Traffic Act 1988 (obligatory type approval certificates, certificates of conformity and Minister's approval certificates), for subsection (5) (power to make exemptions by regulations) substitute—

"(5) The Secretary of State may make provision for securing that, subject to such restrictions and conditions as may be specified by or under the instrument by which the provision is made—

(a) the use of vehicles is exempted from all or any of the preceding provisions of this section for purposes specified in the instrument or in such an area as is so specified,

(b) goods vehicles are exempted from the provisions of subsection (2) above, and

(c) there are issued in respect of vehicles or vehicle parts, in such circumstances as may be specified in the instrument, certificates of temporary exemption exempting the vehicles or vehicle parts from the provisions of subsection (1) above for such period as may be provided in the certificate.

(6) Subject to subsection (7) below, the power conferred by subsection (5) above is exercisable by regulations.

(7) That power is exercisable by order in relation to—

(a) specified vehicles, or

(b) vehicles of specified persons;

and an order under this subsection may be varied or revoked by a subsequent order of the Secretary of State."

Commencement Information

I224 S. 264 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M135 1988 c. 52.

Licensing of private hire vehicles

265 Vehicles subject to regulation as private hire vehicles.

(1) In section 79 of the [M136]Public Passenger Vehicles Act 1981 (which provides that a vehicle which is not a public service vehicle because of section 1(3) or (4) of that Act is to be treated as one for the purpose of excluding it from regulation as a private hire vehicle), for "1(3) or (4)" substitute " 1(4) ".

(2) After that section insert—

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"79A Small PSVs subject to regulation as private hire vehicles.

(1) If a small bus is being provided for hire with the services of a driver for the purpose of carrying passengers otherwise than at separate fares, it is not to be regarded as a public service vehicle for the purpose of—

(a) Part II of the [M137]Local Government (Miscellaneous Provisions) Act 1976, or

(b) any local Act applying in any area in England and Wales which regulates the use of private hire vehicles provided for hire with the services of a driver for the purpose of carrying passengers and excludes public service vehicles from the scope of that regulation.

(2) If a small bus is being made available with a driver to the public for hire for the purpose of carrying passengers otherwise than at separate fares, it is not to be regarded as a public service vehicle for the purpose of the [M138]Private Hire Vehicles (London) Act 1998.

(3) But subsection (1) or (2) does not apply where the vehicle is being so provided or made available in the course of a business of carrying passengers by motor vehicles all but a small part of which involves the operation of large buses.

(4) In this section—

"small bus" means a public service vehicle within paragraph (b) of subsection (1) of section 1 of this Act; and

"large buses" means public service vehicles within paragraph (a) of that subsection."

(3) In section 167(4) of the [M139]Criminal Justice and Public Order Act 1994 (touting for hire car services: defence in case of public service vehicles), for "passengers for public service vehicles" substitute " passengers to be carried at separate fares by public service vehicles ".

Marginal Citations

M136 1981 c. 14.
M137 1976 c. 57.
M138 1998 c. 34.
M139 1994 c. 33.

Enforcement of requirements relating to drivers' hours

266 Power to prohibit driving of vehicle.

After section 99 of the [M140]Transport Act 1968 insert—

"99A Power to prohibit driving of vehicle.

(1) If—

(a) the driver of a UK vehicle obstructs an authorised person in the exercise of his powers under subsection (2) or (3) of section 99 of this Act or

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fails to comply with any requirement made by an authorised person under subsection (1) of that section,

(b) it appears to an authorised person that, in relation to a UK vehicle or its driver, there has been a contravention of any of the provisions of—

(i) sections 96 to 98 of this Act and any orders or regulations under those sections, or

(ii) the applicable Community rules,

or that there will be such a contravention if the vehicle is driven on a road, or

(c) it appears to an authorised person that an offence under section 99(5) of this Act has been committed in respect of a UK vehicle or its driver,

the authorised person may prohibit the driving of the vehicle on a road either for a specified period or without limitation of time.

(2) Where an authorised person prohibits the driving of a vehicle under this section, he may also direct the driver to remove the vehicle (and, if it is a motor vehicle drawing a trailer, also to remove the trailer) to such place and subject to such conditions as are specified in the direction; and the prohibition shall not apply to the removal of the vehicle in accordance with that direction.

(3) On imposing a prohibition under subsection (1) of this section, the authorised person shall give notice in writing of the prohibition to the driver of the vehicle, specifying the circumstances (as mentioned in paragraph (a), (b) or (c) of that subsection) in consequence of which the prohibition is imposed and stating whether it is imposed only for a specified period (and if so specifying the period) or without limitation of time.

(4) Any direction under subsection (2) of this section may be given—

(a) in the notice under subsection (3) of this section, or

(b) in a separate notice in writing given to the driver of the vehicle.

(5) In this section—

"authorised person" means—

(a) an examiner appointed by the Secretary of State under section 66A of the [M141]Road Traffic Act 1988, or

(b) a constable authorised to act for the purposes of this section by or on behalf of a chief officer of police;

"UK vehicle" means a vehicle registered under the [M142]Vehicle Excise and Registration Act 1994.

99B Duration and removal of prohibition.

(1) Subject to any exemption granted under subsection (2) of this section, a prohibition under subsection (1) of section 99A of this Act shall come into force as soon as notice of it has been given in accordance with subsection (3) of that section and shall continue in force—

(a) until it is removed under subsection (3) of this section, or

(b) in the case of a prohibition imposed for a specified period, until it is removed under that subsection or that period expires, whichever first occurs.

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(2) Where notice of a prohibition has been given under section 99A(3) of this Act in respect of a vehicle, an exemption in writing for the use of the vehicle in such manner, subject to such conditions and for such purposes as may be specified in the exemption may be granted by any authorised person.

(3) A prohibition under section 99A(1) of this Act may be removed by any authorised person, if he is satisfied that appropriate action has been taken to remove or remedy the circumstances (as mentioned in paragraph (a), (b) or (c) of section 99A(1) of this Act) in consequence of which the prohibition was imposed; and on doing so the authorised person shall give notice in writing of the removal of the prohibition to the driver of the vehicle.

(4) In this section, "authorised person" has the same meaning as in section 99A of this Act.

99C Failure to comply with prohibition.

Any person who—

(a) drives a vehicle on a road in contravention of a prohibition imposed under section 99A(1) of this Act,

(b) causes or permits a vehicle to be driven on a road in contravention of such a prohibition, or

(c) refuses or fails to comply within a reasonable time with a direction given under section 99A(2) of this Act,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale."

Commencement Information

I225 S. 266 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M140 1968 c. 73.
M141 1988 c. 52.
M142 1994 c. 22.

Appeals relating to London service permits

267 London service permits: appeals.

(1) Section 189 of the [M143]Greater London Authority Act 1999 (appeals against decisions of Transport for London about London service permits) is amended as follows.

(2) In subsections (2) and (4) (appeals to be made to Mayor), for "appeal to the Mayor" substitute " make an appeal ".

(3) In subsection (5) (appeal to be made within 28 days of issue of notice of decision), insert at the end " ; but, subject to that, the procedure for the making of appeals under this section shall be such as the Secretary of State may by regulations prescribe. "

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
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(4) For subsection (6) (Mayor to refer appeal to panel appointed by him) substitute—

"(6) An appeal under this section shall be heard by a panel of persons appointed by the Lord Chancellor for the purpose of hearing such an appeal ("an appeal panel")."

(5) For subsection (7) (charging by Mayor of fees for appeals) substitute—

"(7) The Secretary of State may make regulations providing for the charging of reasonable fees in respect of appeals under this section."

(6) In subsection (9) (payment by Mayor of fees and expenses of panel members), for "Mayor" substitute " Secretary of State ".

(7) For subsections (11) to (13) (power of panel to report to Mayor who may issue appropriate guidance or directions to Transport for London) substitute—

"(11) An appeal panel which has heard an appeal against a decision may—

(a) uphold the decision,

(b) quash the decision, or

(c) substitute for the decision such other decision which Transport for London had power to make as appears to the appeal panel to be appropriate.

(12) An appeal panel which has heard an appeal may make an order about payment of the costs of the appeal; and such an order may require that Transport for London pay to the person who made the appeal a sum equal to the whole or part of any fee paid in accordance with regulations under subsection (7) above."

(8) In section 420(7) of that Act (regulations subject to negative Parliamentary procedure), after the entry relating to any provision contained in Chapters I to IV or VI of Part III, insert—

"section 189;".

Commencement Information

I226 S. 267 wholly in force; s. 267 not in force at Royal Assent see s. 275(1)(2); s. 267(1)(3)(5)(8) for specified purposes (E.) (1.2.2001) by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 267 in force in so far as not already in force at 1.4.2002 by S.I. 2002/658, art. 2(2), **Sch. Pt. 2** (with transitional provision in art. 3)

Marginal Citations

M143 1999 c. 29.

Quiet lanes and home zones and rural road speed limits

268 Quiet lanes and home zones.

(1) A local traffic authority may designate any road for which they are the traffic authority as a quiet lane or a home zone.

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
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(2) The appropriate national authority may make regulations authorising local traffic authorities who have designated roads as quiet lanes or home zones to make use orders and speed orders of such descriptions as are prescribed by the regulations in relation to any roads designated by them as quiet lanes or home zones.

(3) A use order is an order permitting the use of a road for purposes other than passage.

(4) But a use order may not permit any person—
- (a) wilfully to obstruct the lawful use of a road by others, or
- (b) to use a road in a way which would deny reasonable access to premises situated on or adjacent to the road.

(5) A speed order is an order authorising the local traffic authority by whom it is made to take measures with a view to reducing the speed of motor vehicles or cycles (or both) on a road to below that specified in the order.

(6) The appropriate national authority may make regulations specifying procedures for the making, variation and revocation of—
- (a) designations, and
- (b) use orders and speed orders,

including procedures for confirmation (whether by the appropriate national authority or any other body).

(7) The appropriate national authority may give guidance to local traffic authorities about matters to which they must have regard in determining whether or not to designate a road as a quiet lane or home zone.

(8) In this section—

"the appropriate national authority" means—
- (a) the Secretary of State as respects England, and
- (b) the National Assembly for Wales as respects Wales,

"cycle" has the same meaning as in the [M144]Road Traffic Act 1988,

"local traffic authority" has the same meaning as in the [M145]Road Traffic Regulation Act 1984,

"motor vehicle" means a mechanically propelled vehicle intended or adapted for use on roads, and

"road" has the same meaning as in the [M146]Road Traffic Regulation Act 1984.

(9) Regulations under this section shall be made by statutory instrument and may make different provision for different cases or areas.

(10) A statutory instrument containing regulations made by the Secretary of State under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

I227 S. 268 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Status: *Point in time view as at 26/11/2008. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Transport Act 2000 is up to date with all changes known to be in force on or before 24 July 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)*

Marginal Citations
M144 1988 c. 52.
M145 1984 c. 27.
M146 1984 c. 27.

PROSPECTIVE

[F123]269 Report on rural road speed limits.

. . . . . .

Textual Amendments
F123 S. 269 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 14**

School crossing patrols

270 School crossing patrols.

(1) The [M147]Road Traffic Regulation Act 1984 is amended as follows.

(2) In section 26 (arrangements for patrolling places where children cross roads during certain periods)—
- (a) in subsection (1), omit "during periods between the hours of eight in the morning and half-past five in the afternoon when children are so on their way,", and
- (b) after that subsection insert—

"(1A) Arrangements under subsection (1) above may be made for patrolling places at such times as the authority thinks fit."

(3) In section 28 (power to stop vehicles at school crossings)—
- (a) in subsection (1)—
  - (i) omit "between the hours of eight in the morning and half-past five in the afternoon", and
  - (ii) for "children on their way to or from school, or from one part of a school to another, are" substitute " a person is ",
- (b) in subsection (2)—
  - (i) for "children are" substitute " person is ", and
  - (ii) for "their" substitute " his ", and
- (c) in subsection (5)—
  - (i) insert " and " at the end of paragraph (a), and
  - (ii) omit paragraph (c) and the word "and" before it.

Marginal Citations
M147 1984 c. 27.

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Stands etc. for bicycles or motor cycles

271 Stands etc. for bicycles or motor cycles.

(1) The [M148]Road Traffic Regulation Act 1984 is amended as follows.

(2) In section 63 (power of authorities to provide stands and racks for bicycles), for "and racks for bicycles" substitute " or racks for, or devices for securing, bicycles or motor cycles ".

(3) In section 136(4) (meaning of "motor cycle"), for "section 57" substitue " sections 57 and 63 ".

Commencement Information

I228 S. 271 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M148 1984 c. 27.

Financial assistance: inland waterway and sea freight

272 Financial assistance for inland waterway and sea freight.

(1) The Secretary of State may make grants or other payments for the purpose of securing or encouraging the carriage of goods by inland waterway or by sea rather than by road where he is satisfied that that is in the public interest.

(2) Grants or payments under this section may in particular be made in respect of facilities for or in connection with the carriage of goods by inland waterway or by sea (including facilities for loading or unloading goods).

(3) Grants or payments under this section shall be of such amount and subject to such conditions (including conditions requiring their repayment in specified circumstances) as the Secretary of State may determine.

(4) So far as it relates to inland waterways in Wales the power conferred by this section is a power of the National Assembly for Wales.

(5) The power conferred by this section may only be exercised in or as regards Scotland if its exercise relates to reserved matters within the meaning of the [M149]Scotland Act 1998.

(6) In this section "inland waterway" includes both a natural and an artificial inland waterway.

Modifications etc. (not altering text)

C33 S. 272 functions made exercisable (28.2.2003) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2003 (S.I. 2003/415), arts. 1(1), **3** (with art. 5)

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Commencement Information

I229 S. 272 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

Marginal Citations

M149 1998 c. 46.

Supplementary

273 Offences: general.

(1) If an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of—

(a) a director, manager, secretary or other similar officer of the body, or

(b) a person who was purporting to act in such a capacity,

he (as well as the body) commits the offence.

(2) In subsection (1) "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body.

(3) If an offence under this Act is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of a partner, he (as well as the partnership) commits the offence.

Commencement Information

I230 S. 273 wholly in force at 1.2.2001, see s. 275(1)(2) and S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II)

274 Repeals and revocations.

Schedule 31 contains repeals and revocations.

Commencement Information

I231 S. 274 not in force at Royal Assent see s. 275(1)(2); s. 274 in force (1.4.2001 and 1.6.2001 for specified purposes) by S.I. 2000/3229, **art. 2**, Pts. III, IV; s. 274 in force (15.1.2001 for specified purposes) by S.I. 2000/3376, **art. 2**; s. 274 in force at 1.2.2001 for further specified purposes by S.I. 2001/57, art. 3(1), **Sch. 2 Pt. I** (subject to the transitional provision and saving in Sch. 2 Pt. II); s. 274 in force (E.) at 1.2.2001 for further specified purposes by S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I** (subject to the savings in Sch. 3 Pt. II); s. 274 in force at 1.4.2001 for further specified purposes by S.I. 2001/869, **art. 2**; s. 274 in force for specified purposes (E.) at 26.10.2001 by S.I. 2001/3342, art. 2, **Sch.**; s. 274 in force for certain purposes at 1.4.2002 by S.I. 2002/658, art. 2(2), **Sch. Pt. 2** (with transitional provision in art. 3) (as substituted by S.I. 2002/846, **art. 2**); s. 274 in force (E.) for certain purposes at 1.5.2002 by S.I. 2002/1014, art. 2, **Sch. Pt. 1** (with transitional provisions in art. 3); s. 274 in force for certain purposes (W.) at 14.8.2002 by S.I. 2002/2024, **art. 2(b)**

I232 S. 274 in force at 15.10.2005 for specified purposes by S.I. 2005/2862, **art. 3**

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275 Commencement.

(1) Subject as follows, the preceding provisions of this Act come into force in accordance with provision made by the Secretary of State by order made by statutory instrument; and different provision may be made for different purposes.

(2) The power conferred by subsection (1) is exercisable as respects Wales by the National Assembly for Wales (and not the Secretary of State) in relation to Parts II and III (and the repeals relating to Part II).

F124(3) . . . . . .

(4) Section 231 (and Schedule 24), section 253 (and Schedule 28) and section 269 come into force on the day on which this Act is passed.

(5) In section 245, subsections (1) and (3) to (5), and subsections (2) and (8) so far as relating to subsections (3) to (5), shall be treated as having come into force on 10th May 2000.

Subordinate Legislation Made

P1 S. 275(1)(2)(3) power partly exercised: different dates appointed for specified provisions by S.I. 2000/3229, **art. 2**, S.I. 2000/3376, art. 2

P2 S. 275(1)(2) power partly exercised: different days appointed for specified purposes by S.I. 2001/57, arts. 2, 3, Schs. 1, **2** Pt. I, 3 Pt. I (subject to the transitional provision and savings in Sch. 2 Pt. II, 3 Pt. II

S. 275(1)(2) power partly exercised: different dates appointed for specified purposes by S.I. 2001/1498, **arts. 2**, 3

S. 275(1)(2) power partly exercised: 1.4.2002 appointed for specified purposes by S.I. 2002/658, art. 2, **Sch.** (with transitional provisions in art. 3)

S. 275(1)(2) power partly exercised: 1.5.2002 appointed for specified provisions by S.I. 2002/1014, art. 2, **Sch.** (with transitional provisions in art. 3)

P3 S. 275(1) power partly exercised: 20.2.2001 appointed for specified purposes by S.I. 2001/242, **art. 2**

S. 275(1) power partly exercised: 26.10.2001 appointed for specified purposes by S.I. 2001/3342, **art. 2**

S. 275(1) power partly exercised: 27.3.2002 appointed for specified purpose by S.I. 2002/846, **art. 2**

P4 S. 275(2) power partly exercised: 14.8.2002 appointed for specified purposes by S.I. 2002/2024, **art. 2**

Textual Amendments

F124 S. 275(3) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 14**

276 Transitionals and savings.

(1) The Secretary of State may by order made by statutory instrument make any transitional provisions or savings which he considers appropriate in connection with the coming into force of any provision of this Act.

(2) The power conferred by subsection (1) is exercisable as respects Wales by the National Assembly for Wales (and not the Secretary of State) in relation to Parts II and III (and the repeals relating to Part II).

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Subordinate Legislation Made

P5 S. 276 power partly exercised: different dates appointed for specified provisions by S.I. 2000/3229, **art. 2**
S. 276 power partly exercised: 1.4.2002 appointed for specified purposes and provisions by S.I. 2002/658, art. 2, **Sch.** (with transitional provisions in art. 3)
S. 276 power partly exercised: 1.5.2002 appointed for specified provisions by S.I. 2002/1014, art. 2, **Sch.** (with transitional provisions in art. 3)

277 Power to make amendments.

(1) The Secretary of State may, in consequence of any provision of this Act or of any instrument made under it, by order made by statutory instrument make such amendments (including repeals or revocations) as appear to him to be appropriate in—
  (a) any Act (whether public general or local) passed, or
  (b) any subordinate legislation (within the meaning of the [M150]Interpretation Act 1978) made,

before that provision comes into force.

(2) The power conferred by subsection (1) is exercisable as respects Wales by the National Assembly for Wales (and not the Secretary of State) in relation to Parts II and III and any instruments made under them.

(3) No order shall be made under subsection (1) by the Secretary of State unless a draft of the order containing it has been laid before, and approved by resolution of, each House of Parliament.

Marginal Citations

M150 1978 c. 30.

278 Financial provision.

(1) There shall be paid out of money provided by Parliament—
  (a) any expenditure incurred by any Minister of the Crown or government department under or by virtue of this Act (apart from any expenditure to be met from the National Loans Fund), and
  (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

(2) There shall be issued to the Secretary of State by the Treasury out of the National Loans Fund any sums required by him for—
  (a) making loans under section 52 to a transferee, [F125]...
  [F125](b) . . . . . .

(3) There shall be paid into the National Loans Fund any repayment of, or payment of interest on, loans—
  (a) made under section 52 by the Secretary of State to a transferee, [F126]...
  [F126](b) . . . . . .

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(4) The assets of the National Loans Fund shall be reduced by an amount corresponding to such liability as the Secretary of State extinguishes by order under section 57.

(5) There shall be paid into the Consolidated Fund any sums received by any Minister of the Crown or government department under or by virtue of this Act (apart from any sums required to be paid into the National Loans Fund).

Textual Amendments

F125 S. 278(2)(b) and preceding word repealed (E.W.S.) (1.12.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2006/2911, art. 2, Sch.

F126 S. 278(3)(b) and preceding word repealed (E.W.S.) (1.12.2006) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 13 Pt. 1** (with s. 14(4)(5), Sch. 11 para. 11(2)); S.I. 2006/2911, art. 2, Sch.

279 Extent.

(1) Parts II and III, and the repeals relating to those Parts, and sections 255 and 256, 265, 267 and 268 and 270 and 271, and the repeals in Part V(2) of Schedule 31, extend only to England and Wales.

(2) Subject as follows, Part IV, sections 257 to 260 (and Schedule 29), sections 261 to 263 (and Schedule 30) and sections 264, 266 and 269, and Part V(1) of Schedule 31, extend only to England and Wales and Scotland.

(3) The amendments made by Parts I and IV, and the repeals and revocations relating to those Parts, have the same extent as the enactments to which they relate (except where it is otherwise provided).

(4) Sections 247 and 250, paragraph 14 of Schedule 14 and Schedule 26 extend to England and Wales, Scotland and Northern Ireland.

280 Short title.

This Act may be cited as the Transport Act 2000.

Status:
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Changes to legislation:
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