

*These notes refer to the Concessionary Bus Travel Act 2007 (c. 13)
which received Royal Assent on 19 July 2007*

CONCESSIONARY BUS TRAVEL ACT 2007

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Concessionary Bus Travel Act 2007 ('the Act'), which received Royal Assent on 19 July 2007. They have been prepared by the Department for Transport in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.

2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

SUMMARY AND BACKGROUND

Note on abbreviations

3. In these notes—

- 'the 1985 Act' means the Transport Act 1985;
- 'the 1999 Act' means the Greater London Authority Act 1999;
- 'the 2000 Act' means the Transport Act 2000.

Summary

4. The Act implements the Government's announcement in the 2006 Budget that England residents aged 60 and over, and disabled England residents, will get free off-peak travel on all local buses anywhere in England.

Background

5. Mandatory bus travel concessions for England residents are provided on 'eligible services'¹ outside Greater London under sections 145 to 150 of the 2000 Act; and in Greater London under sections 240 to 244 of, and Schedule 16 to, the 1999 Act. Under the 2000 Act provisions, and prior to amendment by the Act, concessions were provided only in the area of

¹ 'Eligible services' are as specified in orders made under section 146 of the 2000 Act. Current orders (in respect of England and Wales) specify broadly that eligible services in England and Wales are 'local services' provided by local education authorities, or for older persons or disabled persons, on buses. A minimum proportion of the seats must be available to the public for the service to be an 'eligible service' and there are other criteria designed to ensure that, for a service to be an 'eligible service', it must be accessible to the public for local travel. The term 'local service' is defined in section 2 of the 1985 Act, broadly to encompass buses carrying passengers at separate fares locally, other than on private trips.

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the travel concession authority where the person resided². Under the 1999 Act provisions, concessions throughout the ‘London bus network’ had to be provided to all eligible London residents. The ‘London bus network’ is the network of bus services procured by Transport for London. The only other local bus services which can be run in London are services under ‘London service permits’ issued by Transport for London. London service permit operators were not obliged to offer a concession.

6. The Act changes both the 2000 Act and the 1999 Act so that the free bus travel concession is available not just in the area local to a pass holder’s residence, but also on local bus travel anywhere in England, including on the London bus network and on London service permit services which fall within the definition of ‘eligible services’.

7. The Act guarantees free local bus travel, for those eligible, from 9:30am until 11pm on weekdays and all day on weekends and bank holidays, anywhere in England (‘the national concession’). In addition, the Secretary of State is given a power to streamline the mechanisms for administering the national concession and reimbursing bus operators. Reimbursement could be streamlined by changing which tier of local authority is responsible for reimbursement in an administrative area, or by having the Secretary of State carry out reimbursement centrally. The Act also allows the Secretary of State to streamline the administration of discretionary travel concession schemes (made by local authorities under section 93 of the 1985 Act). It also extends the period of time during which appeals can be made by bus operators in respect of new or varied reimbursement arrangements made by English authorities under the 2000 Act (and makes a similar change in relation to appeals against notices given by English authorities requiring operators to participate in schemes under section 93 of the 1985 Act).

8. The Act allows the Secretary of State and Welsh Ministers to make changes to the legislation applying in England and Wales respectively to facilitate mutual recognition across the United Kingdom of passes issued under the English, Welsh, Scottish and Northern Irish national concessionary schemes. Flexibility for the English and Welsh administrations to vary the scope of the statutory concession available in their respective territories is retained.

9. Local authorities retain the discretion to offer their residents other travel concessions as well as or, in some cases (if the concessionaire agrees), instead of the national concession. Such voluntary concessions might include concessionary travel before 9:30am on weekdays, tokens for taxis, concessions on other modes of transport such as trams, or travel on routes across national boundaries.

² Travel concession authorities are defined in section 146 of the 2000 Act. Prior to the Act, English travel concession authorities were non-metropolitan district councils, county councils for areas where there are no district councils, and Passenger Transport Executives for passenger transport areas. This definition included unitary authorities, which are either county councils (to which district council functions have been transferred) or district councils (to which county council functions have been transferred). The Act has expanded this definition to include ‘London authorities’ and the Council of the Isles of Scilly (see section 2).

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OVERVIEW OF THE STRUCTURE

10. The Act has 16 sections and three Schedules. Sections 1 to 3 cover the national concession for journeys beginning outside the London bus network and sections 4 to 7 cover the national concession for journeys beginning on the London bus network. Sections 8 to 10 contain powers to alter both the national concession and discretionary travel concession schemes. Sections 11 to 16 deal with miscellaneous items such as interpretation and the manner in which the Secretary of State can exercise his powers under the Act.

TERRITORIAL APPLICATION: WALES

11. The Act replaces section 145 of the 2000 Act (which contained the previous mandatory bus travel concession for Wales and most of England) with two new sections. One section provides for the new national concession for England (for journeys beginning outside the London bus network); the other restates the mandatory concession for Wales.

12. The only significant change to the legislation which could affect Wales is the inclusion of order-making powers enabling the Welsh Ministers and the Secretary of State to require, in their respective territories, the recognition of concessionary passes issued under each other's concessionary regimes, and those of Scotland and Northern Ireland. These powers could be used once all parties had agreed the practical arrangements of a reciprocal United Kingdom wide scheme. The Welsh Ministers' powers include power to adjust the way in which bus operators are reimbursed under the Welsh scheme, so that they can be reimbursed for carrying concessionaires from outside Wales.

13. The Act does not change the way the Welsh scheme operates, nor does it affect the Welsh Ministers' powers to alter the scope of the scheme.

TERRITORIAL EXTENT

14. The Act extends to England and Wales only.

COMMENTARY ON SECTIONS

National concession: journeys not beginning on London bus network

15. The national concession applies across England, but the Act deals separately with journeys beginning outside the London bus network and those beginning on the London bus network. This is because non-London and London services are subject to different legislative and administrative arrangements (see paragraph 5 above). Sections 1 to 3 deal with journeys not beginning on the London bus network.

Section 1: The national concession

16. Section 1 replaces section 145 of the 2000 Act with a new section 145A establishing the new national concession in England on 'eligible journeys' (i.e. single bus trips between places in England which begin at the relevant times and which do not begin on the London

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bus network)³. The new section 145A removes the restriction that a journey must be within a person's local authority area in England for the concession to be available to them. This is done by providing that any England resident pass holder can receive the concession on 'eligible journeys' on eligible bus services⁴. Since the 2000 Act concession is now available anywhere in England, rather than only within local authority areas outside London, it is available for the first time on eligible commercial services (i.e. London service permit services) in Greater London.

17. The arrangements for concessionary travel in Wales that were formerly included in section 145 of the 2000 Act have been re-stated in Schedule 2 as new section 145B of that Act.

18. New wording at section 145A(4) of the 2000 Act secures that travel concession authorities in England (other than in London) must issue permits to older or disabled persons 'whose sole or principal residence' is in the travel concession authority's area. The Secretary of State is also given a power to issue guidance to travel concession authorities as to how they should interpret 'sole or principal residence'. This is intended to promote the adoption of a consistent approach. London residents receive passes under the London arrangements set out in the 1999 Act. Under new section 145A those passes become valid outside London (see paragraph 20 below).

19. There is also a power at new section 145A(5) for the Secretary of State to make regulations as to what a permit issued by a non-London travel concession authority must look like. This is so that the appearance of cards across the country can be standardised in an agreed form that is easily recognised by bus drivers. As before, a person can choose to give up the national concession in exchange for other concessionary travel benefits offered by their local authority under discretionary travel concession schemes administered under section 93 of the 1985 Act.

Section 2: The national concession: supplementary

20. Travel concession authorities under sections 145 to 150 of the 2000 Act are responsible for issuing passes to their residents, reimbursing operators providing the national concession, and enforcement of the national concession. Prior to the Act, with respect to England they were defined in section 146 of the 2000 Act as non-metropolitan district councils, county councils (so far as there is no district council for the area), and Passenger

³ This includes journeys which begin outside Greater London and end inside Greater London on the London bus network. The 'London bus network' is defined in the 1999 Act broadly to mean certain local services procured by Transport for London to the extent that they are within Greater London. Some services procured to make up the London bus network do, in fact, cross over the Greater London border into surrounding areas. Because journeys on these cross border services which begin outside Greater London but end in Greater London on the London bus network are covered by the provisions of the new section 145A, concessions on them are funded by the travel concession authority in whose area the journey begins (consistent with the rest of the country).

⁴ Concessions on journeys on the London bus network and those which begin on the network and end outside Greater London are provided for under the 1999 Act, as amended, and so will be funded by London authorities (in accordance with the general principle that the national concession is funded by the local authority in whose area the relevant journey begins).

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Transport Executives for passenger transport areas. Section 2 of the Act amends this definition of ‘travel concession authority,’ adding ‘London authority’ (London borough councils and the Common Council of the City of London) and the Council of the Isles of Scilly. This means that London authorities need to reimburse the operators of London service permit services for their provision of the national concession on ‘eligible services’ (see paragraph 5 above). London authorities will not issue permits under the 2000 Act, as permits issued to London residents under the 1999 Act will be used by London residents to access the national concession outside London (see new section 145A(3)). Although there are currently no eligible services on the Isles of Scilly, making the Council of the Isles of Scilly a travel concession authority enables residents to obtain a national concession pass to use on the mainland (see section 145A(4)).

Section 3: Reimbursement of operators

21. This section makes provision for operators providing the national concession to England residents to be reimbursed by the travel concession authority for the area in which the journey began. This replaces the previous requirement for English travel concession authorities to reimburse operators only for journeys made wholly in their area by concessionaires resident in their area. The previous reimbursement provisions in respect of the Welsh concession are restated with no substantive change.

22. This section also changes the deadline by which bus operators may appeal against reimbursement arrangements regarding their provision of the national concession, under section 150(3) of the 2000 Act. Subsections (4) to (6) amend section 150(4) of the 2000 Act and add a new section 150(4A) to secure that the deadline for lodging such appeals in respect of reimbursement arrangements determined by English travel concession authorities is extended from 28 days to 56 days. The current arrangements in respect of appeals against reimbursement arrangements set by Welsh authorities are restated with no substantive change.

National concession: journeys beginning on London bus network

Section 4: The national concession: journeys beginning on London bus network

23. Section 240 of the 1999 Act enables local authorities (inside London and out) to enter into arrangements under which travel concessions can be offered to certain categories of people and on certain modes of public transport (including the London bus network). If these voluntary arrangements do not fulfil certain criteria (including the provision of the concessions described at section 242(8) of the 1999 Act), then a ‘reserve free travel scheme’ will instead operate (see paragraph 24 below). This section alters section 240 of the 1999 Act to ensure that those resident outside London and holding permits issued by travel concession authorities under the 2000 Act can be recognised as a category of persons eligible under a concessionary scheme set up under arrangements made under that section. It also ensures that London authorities will issue passes only to those whose ‘sole or principal residence’ is in their area and that London authorities must have regard to any guidance on ‘sole or principal residence’ that is issued by the Secretary of State.

Section 5: Reserve free travel scheme and Section 6: Requirements as to scope

24. Section 241 of the 1999 Act provides that if, in the view of Transport for London, voluntary arrangements made between it and local authorities under section 240(1) of that

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Act do not provide certain minimum travel concessions to eligible London residents, then a 'reserve free travel scheme' will come into effect which ensures these concessions and others. The terms of the reserve free travel scheme are contained in Schedule 16 to the 1999 Act. Sections 5 and 6 add to the 'minimum concessions' (set out in section 242 of the 1999 Act) which must be secured under the section 240(1) arrangements, so that they include the national concession for all eligible England residents travelling on journeys which begin on the London bus network, whether or not they end on it.⁵ The changes also ensure that eligible London residents continue to benefit from the enhanced concessions guaranteed under section 242(8) of the 1999 Act (as it was before it was amended by the Act).

Section 7: Requirements as to uniformity

25. This section amends section 243 of the 1999 Act to include permits issued by travel concession authorities under section 145A(4) of the 2000 Act (i.e. non-London permits) within the requirement in section 243 that enjoyment of the national concession on the London bus network is conditional on showing a permit. The section also confers a power for the Secretary of State to stipulate the form and period of validity of passes issued under section 240(1) arrangements.

Power to alter national concession etc

Section 8: Variation of scope of the national concession

26. This section secures that the Secretary of State can amend relevant parts of the 2000 Act and the 1999 Act by order to expand the scope of the national concession in the ways stated. Elements of this power already existed under section 147 of the 2000 Act in respect of the previous concession available outside London, and have been restated so that any amendment to the national concession can be synchronised both inside and outside Greater London. The Secretary of State could use these powers, for example, to extend the national concession to any further categories of people who are eligible to be offered concessions under discretionary travel concession schemes set up under section 93 of the 1985 Act, or to other modes of public passenger transport. There is also a new power to provide that a concession other than a waiver of the fare (e.g. a discount) can be offered to any new class of person made eligible for the national concession by order under this section. Concessions offered to such new classes of person can also be offered at any times specified, and those offered to people currently eligible can be made available at more (but not less) generous times.

⁵ That is, journeys on relevant local services not covered by the 2000 Act. Concessions on journeys which cross the boundary of Greater London going out of London (and so which, technically, begin on the London bus network but do not end on it) are catered for, as these journeys are funded by Transport for London as part of the London bus network, and so concessions on them will be funded by London authorities, rather than by the bordering local authorities. Prior to the Act, only those parts of London bus network services that are within Greater London were caught within the 1999 Act concessionary regime.

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Section 9: Variation of reimbursement and other administrative arrangements

27. This section allows the Secretary of State, by order, to centralise reimbursement and/or other administrative functions of English travel concession authorities under sections 145 to 150 of the 2000 Act. The other administrative functions are the issuing of permits and enforcement powers. The section states that the centralisation can be carried out by way of transfer of these functions from non-unitary non-metropolitan district councils to the relevant county councils, or simply by way of transfer of the functions to the Secretary of State. An order under which travel concession authority functions are transferred to the Secretary of State can include consequential provisions which, inter alia, alter the way in which reimbursement appeals are dealt with, for example by setting up a body to hear appeals against the Secretary of State. Currently the Secretary of State hears these appeals. It is intended that any order made under section 9 would be accompanied by the appropriate regulatory impact assessment ('RIA') and would be the subject of extensive consultation.

28. In the event that an order under subsection (1)(a) or (2)(a) is made transferring responsibility for reimbursement to the Secretary of State or county councils, the Secretary of State may, under subsection (6), also streamline the administration of discretionary travel concession schemes under section 93 of the 1985 Act. The Secretary of State can do this either by removing from non-unitary or metropolitan district councils their functions in making section 93 schemes; or by providing that they may only make such schemes if they do so jointly with the county council or Passenger Transport Authority for their area. In the latter case, the order may include provisions stipulating that the relevant upper tier authority be responsible for certain functions in running such schemes, so that, for example, a county council might be made responsible for reimbursement functions.

Section 10: Reciprocal arrangements for providing travel concessions

29. This section enables England and Wales to recognise each other's passes and those of Scotland and Northern Ireland. This power is likely to be used at such a time as all parties have agreed the practical issues surrounding mutual recognition of passes across the United Kingdom, including funding. The section allows the Secretary of State and the Welsh Ministers flexibility in deciding which categories of concessionaire will receive which kinds of concession in England and Wales respectively, which may be useful in view of the differences between the national schemes.

30. The Welsh Ministers' power to provide for recognition of English, Scottish and Northern Irish passes includes, under subsection (5), power to provide for bus operators to be reimbursed for journeys by holders of non-Welsh permits which begin within Welsh travel concession authority areas. This would be necessary when, for example, holders of English permits were making use of them to travel within Wales. There is also provision at subsection (4) to deal with the geographical overlap of schemes on introduction of any reciprocal arrangements. This is to avoid problems of double reimbursement.

Miscellaneous and supplemental

Sections 11 and 13: Orders and minor and consequential amendments

31. Section 11 stipulates that all powers of the Secretary of State and Welsh Ministers to make orders under the Act are exercisable by statutory instrument. A statutory instrument containing an order under section 8 (i.e. an order amending the scope of the concession in

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England) is subject to the negative resolution procedure. This mirrors the procedure that applies to the equivalent order-making powers under section 147 of the 2000 Act.

32. Orders made by the Secretary of State under sections 9 (varying reimbursement and other administrative arrangements), 10 (allowing for recognition of Welsh, Scottish and Northern Irish permits in England) and 13 (consequential amendments) of the Act are subject to the affirmative resolution procedure, as are orders made by the Welsh Ministers under section 10 (allowing for recognition of English, Scottish and Northern Irish permits in Wales). This means that the order cannot be made unless a draft of the statutory instrument has been approved by both Houses of Parliament (in the case of England) or the National Assembly (in the case of Wales).

33. Section 13 contains a power for the Secretary of State to make changes to any other enactment passed or instrument made on or before the last day of the session in which the Act is passed. Such changes are limited to those which appear to him to be appropriate in consequence of the Act and (as mentioned above) are subject to the affirmative resolution procedure.

Section 15: Commencement, transitional provision and savings

34. Subsection (3) preserves for the Welsh Ministers their current power to reverse or amend the effects of a statutory instrument previously made by the National Assembly for Wales that extended the scope of travel concessions available in Wales. More specifically, in 2001, the National Assembly made the Travel Concessions (Extension of Entitlement) (Wales) Order 2001 (SI 2001/3765). Elements of this are now enshrined in the Act. For example, the effect of amendments made to section 145 of the 2000 Act by the 2001 Order to provide that a permit issued by a Welsh travel concession authority has effect in Wales generally rather than just in a travel concession authority area is now recreated in the new section 145B. As the law is being restated, the Act revokes the statutory instrument – this would normally remove the ability of the Welsh Ministers to reverse or amend the effects of the statutory instrument by revoking or amending the instrument. However, subsection (3) ensures that the Welsh Ministers retain equivalent revocation and amendment powers.

Schedule 1: The London free travel scheme

35. This Schedule amends Schedule 16 to the 1999 Act to ensure that all eligible residents in England, on production of the required permit, are given bus travel concessions as part of the London reserve free travel scheme if that scheme is in operation (see paragraph 24 above). It also allows for the current ‘additional’ concessions to London residents to be preserved, in the same way that residents of local authority areas outside London may benefit from added local concessions offered under discretionary travel concession schemes set up by local authorities under section 93 of the 1985 Act.

Schedule 2: Minor and consequential amendments

36. Paragraph 2 extends the deadline for bus operators to appeal against notices given by English authorities requiring them to participate in discretionary travel concession schemes under section 93 of the 1985 Act. New section 98(4A) is inserted into the 1985 Act and extends the deadline for such appeals from 28 days from the date of the participation notice to 56 days from the date the obligation to participate commences (or, in the case of a new service that has not yet begun, from the date that the obligation would have commenced had

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the service begun). The principle is maintained that local authorities can request a specific period of notice if an operator intends to appeal - this should be at least seven days, but the Secretary of State is given the power to prescribe a different number of days in regulations. The changes help to align provision for appeals under the 1985 Act with the amended provisions for appeals in respect of the national concession under the 2000 Act (see paragraph 22 above).

37. Paragraphs 3, 4 and 5 make changes to the 1985 Act to ensure that there are no unintended substantive changes to the law as a result of the replacement of section 145(1) of the 2000 Act by sections 145A(1) and 145B(1). Paragraph 11 inserts in the 2000 Act the new section 145B, which restates the mandatory concession in Wales. Paragraph 13 ensures that the section 147 powers held by the Welsh Ministers to vary the concession refer to the new section 145B.

COMMENCEMENT

38. Section 15 provides for the Act to come into force on a day appointed by the Secretary of State by order and allows different provisions to be commenced at different times. The operative provisions of the Act which provide for the national concession both inside and outside London will be commenced so that the national concession entitlement will commence in April 2008.

HANSARD REFERENCES

39. The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

| Stage | Date | Hansard Reference |
|---|----------------------------|---|
| House of Lords | | |
| Introduction | 27 November 2006 | Vol. 687, Col 550 |
| Second Reading | 12 December 2006 | Vol. 687, Cols 1453-1477 |
| Grand Committee | 8 January 2007 | Vol. 688, Cols GC1-GC38 |
| Report | 29 January 2007 | Vol. 689, Cols 12-41 |
| Third Reading | 5 February 2007 | Vol. 689, Cols 480-497 |
| Lords Consideration of Commons Amendments | 5 July 2007 | Vol. 693, Cols 1163-1167 |
| House of Commons | | |
| Introduction | 6 February 2007 | |
| Second Reading | 14 May 2007 | Vol. 460, Cols 401-447 |
| Committee | 5 June 2007 (two sittings) | Report of Proceedings, House of Commons Public Bill Committee |

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| Report & Third Reading | 28 June 2007 | Vol. 462, Cols 510-564 |
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Royal Assent - 19 July 2007

House of Commons Hansard Vol. 463, Col 429

House of Lords Hansard Vol. 694, Col 363

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