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# Local Transport Act 2008

## 2008 CHAPTER 26

### PART 3

#### BUS SERVICES

*QCS boards for England and approval by Welsh Ministers in Wales*

VALID FROM 11/01/2010

#### **21 Approval of proposed schemes: required for areas in Wales only**

- (1) Section 126 of the TA 2000 (approval of proposed scheme) is amended as follows.
- (2) Before subsection (1) insert—
  - “(A1) This section has effect in any case where the scheme or proposed scheme relates to an area in Wales.”.
- (3) In subsection (1) (which refers to compliance with section 125) after “complied with” insert “ the requirements of ”.
- (4) In subsection (3) (right of person consulted under section 125(3) to make representations) for “consulted” substitute “ who was consulted, or who is aggrieved at not being consulted, ”.
- (5) In subsection (4)(a)—
  - (a) for “paragraphs (a) and (b)” substitute “ paragraphs (a) to (e) ”, and
  - (b) omit “or (as the case may be) paragraphs (a) to (d) of section 124(1A)”.
- (6) The heading to the section accordingly becomes “ Approval of proposed schemes for areas in Wales ”.

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VALID FROM 11/01/2010

## 22 Boards for proposed schemes for areas in England

(1) After section 126 of the TA 2000 (approval of proposed scheme) insert—

### “126A Boards for proposed schemes for areas in England

- (1) Where the senior traffic commissioner receives a copy of a notice sent by the authority or authorities pursuant to section 125(1)(d), a board (a “QCS board”) is to be constituted in accordance with the provisions of this Part to discharge the functions of such a board in relation to the proposed scheme.
- (2) The board is to consist of 3 members.
- (3) The members shall be—
  - (a) one traffic commissioner (“the Commissioner”),
  - (b) two persons drawn from a panel of persons appointed by the Secretary of State for the purposes of this section.
- (4) The Commissioner is to chair the board.
- (5) Within a prescribed period of receiving the copy of the notice mentioned in subsection (1), the senior traffic commissioner is to—
  - (a) designate the traffic commissioner who is to be the Commissioner in the case of the particular board,
  - (b) give notice of that designation to the authority or authorities, in accordance with the prescribed procedure, identifying the person designated,
  - (c) publish, in such manner as may be prescribed, notice of the designation, identifying the person designated.
- (6) The traffic commissioner who is to be so designated is that one of the traffic commissioners whom the senior traffic commissioner considers most appropriate in all the circumstances of the particular case by reason of any particular knowledge or experience that the traffic commissioner may have.  
This is subject to subsections (7) and (8).
- (7) If the senior traffic commissioner considers that the traffic commissioner who would otherwise fall to be designated to be the Commissioner ought not to be so designated—
  - (a) because of the traffic commissioner's illness, incapacity, absence or impending vacation of office, or
  - (b) because the traffic commissioner is prevented from being the Commissioner by subsection (8),
 the senior traffic commissioner is to designate a different traffic commissioner to be the Commissioner.
- (8) A traffic commissioner whose ability to act impartially in the case of any particular scheme is, in the opinion of that traffic commissioner, in any way impaired must not act as the Commissioner in relation to that scheme.

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- (9) If the senior traffic commissioner is unable to discharge the duty to make a designation under subsection (5), the duties of the senior traffic commissioner under that subsection are to be discharged by the Secretary of State instead.
  - (10) The persons who are to be members of the board by virtue of subsection (3)(b) are to be designated in such manner and at such time as may be prescribed.
  - (11) The Secretary of State shall pay to each person appointed under subsection (3)(b) such remuneration in respect of the person's services as may be determined by the Secretary of State with the consent of the Treasury.
  - (12) In this section “prescribed” means prescribed in regulations under section 126E or 133.”.
- (2) In section 162 of the TA 2000 (interpretation of Part 2) insert the following definition at the appropriate place in subsection (1)—
- ““QCS board” is to be read in accordance with section 126A(1).”.

## 23 Advice by boards or their Commissioners

After section 126A insert—

### “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.
- (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.

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- (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.”.

#### Commencement Information

- II** S. 23 partly in force; s. 23 in force at Royal Assent for specified purposes, see s. 134(1)(c)

VALID FROM 11/01/2010

## 24 Consideration of proposed schemes by boards

After section 126B insert—

### “126C Requests for boards to begin consideration etc of proposed schemes

- (1) This section applies in any case where—
  - (a) the proposed scheme is for an area in England, and
  - (b) the authority or authorities have complied with the requirements of section 125(1) to (3).
- (2) If the authority or authorities wish to proceed with the proposed scheme, they must send each of the following to the QCS board as soon as reasonably practicable after the end of the consultation period—
  - (a) copies of all written responses received from the persons consulted,
  - (b) information about representations made orally at meetings or other events held by the authority or authorities during the consultation period,
  - (c) a summary of the action which the authority or authorities have taken to comply with the requirements of section 125(1) to (3).
- (3) The authority or authorities must have complied with subsection (2) before they send the board a request under subsection (4).
- (4) When the authority or authorities consider it appropriate to do so, they are to send to the board a written request for it to begin the performance of its functions under section 126D in relation to the proposed scheme.
- (5) If the authority or authorities send the board a request under subsection (4), they must also—
  - (a) publish the request,
  - (b) send to the board a copy of the proposed scheme that it is to consider under section 126D,
  - (c) if the proposed scheme mentioned in section 125(2) differs from the proposed scheme mentioned in paragraph (b), publish a notice stating where a copy of the proposed scheme mentioned in paragraph (b) may be inspected.

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- (6) If, following the sending of a request under subsection (4), the authority or authorities—
- (a) modify the proposed scheme under section 125(5) or section 126D(7), and
  - (b) desire the QCS board to exercise its functions under section 126D in relation to the proposed scheme, as modified,
- they may send the board a further request under subsection (4).
- (7) If at any time the authority or authorities decide not to proceed with the proposed scheme, they must—
- (a) give written notice of that decision to the QCS board, and
  - (b) publish notice that they have done so.

### **126D Consideration of proposed schemes by boards**

- (1) Following receipt of a request from the authority or authorities under section 126C(4), the QCS board is to consider the proposed scheme and—
- (a) form an opinion whether the conditions set out in the paragraphs of section 124(1) or, as the case may be, of section 124(1A) are met in the case of the proposed scheme;
  - (b) form an opinion whether the authority or authorities have complied with the requirements of section 125(1) to (3).
- (2) If the board is of the opinion that the conditions mentioned in subsection (1) (a) are not met, it may make recommendations as to actions that the authority or authorities might take in response to that opinion.
- (3) If the board is of the opinion that the authority or authorities have not complied with the requirements of section 125(1) to (3), it may make recommendations as to actions that the authority or authorities might take in response to that opinion.
- (4) If, in performing its functions under subsection (1)(b), the board is of the opinion that any person who was not consulted under section 125(3) ought to have been so consulted, that person has—
- (a) the rights of appeal under section 127A that are conferred by virtue of subsection (3)(b) of that section, or
  - (b) in a case where this section applies by virtue of section 131C(3) (non-exempt proposal to continue scheme), the rights of appeal under section 131F that are conferred by virtue of subsection (3)(b) of that section.
- (5) The board is to give notice to the authority or authorities of—
- (a) the opinions that it has formed on the questions in paragraphs (a) and (b) of subsection (1),
  - (b) any recommendations that it makes under subsection (2) or (3),
  - (c) its reasons for forming those opinions and making any such recommendations,
- and is to publish a report stating those opinions, recommendations and reasons.

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- (6) If, in a case where the board makes recommendations under subsection (3), the authority or authorities take the action recommended by the board and publish notice that they have done so, this Part has effect as if—
- (a) the authority or authorities had complied with the requirements of section 125(1) to (3) to which the recommendations relate, and
  - (b) the opinion formed by the board on the question in subsection (1) (b) had included (and had been stated in the report as including) the opinion that the authority or authorities had complied with those requirements.
- (7) Following receipt of the notice under subsection (5), the authority or authorities may modify the proposed scheme.
- (8) If the authority or authorities—
- (a) modify the proposed scheme by virtue of subsection (7) or section 125(5), and
  - (b) send the board a request under section 126C(4) by virtue of section 126C(6),
- this section has effect with such modifications or exclusions as may be prescribed by regulations under section 126E or 133.”.

## 25 Practice and procedure of boards

After section 126D of the TA 2000 insert—

### “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”);
  - (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.

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- (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).”.

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**Commencement Information**

**12** S. 25 partly in force; s. 25 in force at Royal Assent for specified purposes, see s. 134(1)(c)

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