

2009 No. 107 (C. 08)

TRANSPORT

**The Local Transport Act 2008 (Commencement No. 1 and
Transitional Provisions) Order 2009**

Made - - - - *26th January 2009*

The Secretary of State for Transport makes the following Order in exercise of the powers conferred by section 134 of the Local Transport Act 2008(a).

Citation and interpretation

1.—(1) This Order may be cited as the Local Transport Act 2008 (Commencement No. 1 and Transitional Provisions) Order 2009.

(2) In this Order “the Act” means the Local Transport Act 2008.

Commencement of provisions on 9th February 2009

2.—(1) 9th February 2009 is the appointed day for the coming into force of the provisions of the Act listed in Part 1 of Schedule 1, subject to the transitional provisions in Part 2 of that Schedule.

(2) 9th February 2009 is the appointed day for the coming into force of the provisions of the Act listed in Part 1 of Schedule 2 as respects England(b), subject to the transitional provisions in Part 2 of that Schedule.

(3) 9th February 2009 is the appointed day for the coming into force of section 68(1) (in so far as it relates to section 68(2)) and section 68(2) of the Act as respects England and Scotland.

Commencement of provisions on 4th March 2009

3. 4th March 2009 is the appointed day for the coming into force of the provisions of the Act listed in Schedule 3.

Commencement of provisions on 6th April 2009

4.—(1) 6th April 2009 is the appointed day for the coming into force of the provisions of the Act listed in Part 1 of Schedule 4, subject to the transitional provision in Part 2 of that Schedule.

(2) 6th April 2009 is the appointed day for the coming into force of the provisions of the Act listed in Schedule 5 as respects England.

(a) 2008 c. 26.

(b) As to the exercise of powers to bring these provisions into force as respects Wales, see section 134(6) of the Act.

Commencement of provisions on 1st April 2011

5.—(1) 1st April 2011 is the appointed day for the coming into force, as respects England, of section 9(1), section 9(2) (in so far as it relates to section 9(3)) and section 9(3) of the Act, subject to paragraph (2).

(2) Section 109(2) of the TA 2000^(a) (replacement of local transport plans) shall continue to apply to a local transport authority without the amendments made by section 9(3) of the Act until that local transport authority has wholly replaced the local transport plan which is taken to be its local transport plan on 9th February 2009.

26th January 2009

Paul Clark
Parliamentary Under Secretary of State
Department for Transport

(a) The Transport Act 2000, as defined in section 132 of the Act.

SCHEDULE 1

Article 2(1)

PART 1

PROVISIONS COMING INTO FORCE ON 9TH FEBRUARY 2009

Section 1, in so far as it is not already in force.

Section 6, in so far as it is not already in force.

Section 47, and accordingly Schedule 3, in so far as they are not already in force.

Sections 50 to 52, in so far as they are not already in force.

Sections 62 and 63.

Section 65(2) to (4), in so far as it is not already in force.

Sections 66 and 67.

Section 74, in so far as it is not already in force.

Section 76.

Sections 77 to 102, and accordingly Schedule 4, in so far as they are not already in force.

Section 112(2), in so far as it is not already in force.

Section 113(5) to (7), in so far as it is not already in force.

Section 115(3) to (5), in so far as it is not already in force.

Section 116(4) to (8).

Section 117(2).

Section 118(6) to (9).

Section 119.

Section 120, in so far as it is not already in force.

Section 121 (in so far as it relates to Part 2 of Schedule 6), and accordingly Part 2 of Schedule 6.

Sections 125 and 126, in so far as they are not already in force.

Sections 128 to 130.

Section 131, in so far as it relates to the following entries in Parts 3, 4 and 5 of Schedule 7—

the TA 1968(a),

the Local Government Act 1985(b),

entries for the TA 1985(c) relating to—

sections 9 and 60 of,

section 58(2)(a) and (4)(c) of, and

(a) The Transport Act 1968, as defined in section 132 of the Act.

(b) 1985 c. 51.

(c) The Transport Act 1985, as defined in section 132 of the Act.

paragraph 18(c) of Schedule 3 to,
that Act,
the Education Reform Act 1988(a),
the GLA Act 1999(b),
section 156 of the TA 2000, and
the Constitutional Reform Act 2005(c),
and accordingly those repeals.

PART 2

TRANSITIONAL PROVISIONS IN RELATION TO CERTAIN PROVISIONS COMING INTO FORCE ON 9TH FEBRUARY 2009

1. Notwithstanding the coming into force of section 51 of the Act, section 9 of the TA 1985 (appeals against traffic regulation conditions) is to continue to apply without the amendments made by section 51 of the Act as respects appeals made before 9th February 2009.

2.—(1) Notwithstanding the coming into force of section 62 of the Act, the powers of traffic commissioners conferred by section 26 of the TA 1985 (conditions attached to PSV operator's licence) are to continue to apply without the amendments made by section 62 of the Act as respects any failure to comply with requirements listed in that section which took place before 9th February 2009.

(2) Notwithstanding the coming into force of section 63 of the Act, the powers of traffic commissioners conferred by section 27A of the TA 1985 (additional powers where service not operated as registered) are not available to a traffic commissioner in any case where it appears to a traffic commissioner that an operator—

- (a) has, or may have, failed to operate a local service registered under section 6 of the TA 1985; or
- (b) has, or may have, failed to operate such a service in accordance with the particulars registered under that section,

and that failure, or alleged failure, took place before 9th February 2009.

SCHEDULE 2

Article 2(2)

PART 1

PROVISIONS COMING INTO FORCE ON 9TH FEBRUARY 2009 AS RESPECTS ENGLAND

Section 7, and accordingly Schedule 1.

Section 8.

Section 9(2) (in so far as it relates to section 9(4) and (5)), and section 9(4) and (5).

Sections 10 to 12.

(a) 1988 c. 40.

(b) The Greater London Authority Act 1999, as defined in section 132 of the Act.

(c) 2005 c. 4.

Section 13(1) (in so far as it relates to section 13(2)) and section 13(2).
Section 46, and accordingly Schedule 2.
Section 64.
Section 65(1).
Section 68(1) (in so far as it relates to section 68(3)) and section 68(3).
Sections 69 to 71.
Section 75, in so far as it is not already in force.
Sections 103 to 111, and accordingly Schedule 5, in so far as they are not already in force.
Section 112(1).
Section 113(1) to (4), in so far as it is not already in force.
Section 114.
Section 115(1) and (2), in so far as it is not already in force.
Section 116(1) to (3), in so far as it is not already in force.
Section 117(1).
Section 118(1) to (5).
Section 121 (in so far as it relates to Part 1 of Schedule 6), and accordingly Part 1 of Schedule 6.
Section 131, in so far as it relates to the following entries in Parts 1, 2, 3 and 5 of Schedule 7—
 section 9A(7) of the TA 1968,
 entries for the TA 1985 relating to—
 section 63(8) and (8A),
 sections 74(3) to (12), 75(3) and 79(3), (7) and (8), and
 section 89(7)(b) and (8) of,
 that Act,
 entries for the TA 2000 relating to Part 2 of the Act,
 entries for the TA 2000 relating to—
 section 155(2) and (4) of, and
 Schedule 10 and paragraph 13 of Schedule 11 to,
 that Act,
 entries for the TA 2000 relating to Part 6 of the Act, and
 the Enterprise Act 2002(a),
and accordingly those repeals.

(a) 2002 c. 40.

PART 2

TRANSITIONAL PROVISIONS IN RELATION TO CERTAIN PROVISIONS COMING INTO FORCE ON 9TH FEBRUARY 2009 AS RESPECTS ENGLAND

1.—(1) Subject to paragraph (2), notwithstanding the coming into force of section 8 of the Act, local transport policies developed, and local transport plans prepared and published, by a local transport authority before 9th February 2009 shall continue to have effect until 1st April 2011 as though section 108 of the TA 2000 (local transport plans) had not been amended by section 8.

(2) Paragraph (1) shall not apply to the extent that the local transport policies and plans of a local transport authority are altered by that authority before 1st April 2011.

2. Notwithstanding the coming into force of section 10 of the Act, a bus strategy prepared by a local transport authority in accordance with section 110 of the TA 2000 (bus strategies) shall continue to have effect as respects section 124(1)(a) of that Act (quality contracts schemes).

3. Local transport policies and plans developed and prepared jointly for an integrated transport area by an Integrated Transport Authority and the councils for the metropolitan districts comprised in the area, in accordance with section 108(1)(a) and (3) and section 113(1) of the TA 2000 (role of metropolitan district councils), shall on and after 9th February 2009 be treated as local transport policies and plans developed and prepared by the Integrated Transport Authority in accordance with section 108(1)(a) of the TA 2000, including for the purposes of this Order.

4. Notwithstanding the coming into force of section 64 of the Act, section 155 of the TA 2000 (penalties) shall continue to apply in England without the amendments made by section 64 of the Act in respect of penalties imposed by a traffic commissioner against an operator of a local service where that traffic commissioner is satisfied that the operator had, before 9th February 2009—

- (a) failed to operate a local service registered under section 6 of the TA 1985,
- (b) operated a local service in contravention of that section or section 118(4) or 129(1)(b) of the TA 2000, or
- (c) failed to comply with section 138 or 140(3) of the TA 2000.

5.—(1) Notwithstanding the coming into force of section 71 of the Act, any application which is made before 9th February 2009 and which seeks the consent of the Secretary of State under any of the provisions of the TA 1985 listed in sub-paragraph (2), but which has not been determined by that date, is to be dealt with as if that application had been made on a date on or after 9th February 2009.

(2) The provisions are—

- (a) section 75(3) (subscription for, or acquisition or disposal of, certain shares, securities or other property or assets etc);
- (b) section 79(3) (making or guaranteeing of certain loans);
- (c) section 79(7) (guarantees etc in connection with disposals of certain shares, securities or other property or assets etc); and
- (d) section 79(8) (provision of financial assistance by way of grants, loans, etc).

6. Notwithstanding the coming into force of sections 110 and 111 of the Act, sections 169 and 170 of the TA 2000 (charging schemes) shall continue to apply without the amendments made by sections 110 and 111 in respect of any charging scheme under Part 3 of the TA 2000 which was submitted to the Secretary of State in accordance with section 169 of that Act before 9th February 2009.

SCHEDULE 3

Article 3

PROVISIONS COMING INTO FORCE ON 4TH MARCH 2009

Section 3(1), in so far as it inserts new sections 4A, 4C and 4D into the PPVA 1981(a).

Section 3(2) to (4).

SCHEDULE 4

Article 4(1)

PART 1

PROVISIONS COMING INTO FORCE ON 6TH APRIL 2009

Section 48, in so far as it is not already in force.

Sections 53 and 54, in so far as they are not already in force.

Sections 57 to 61, in so far as they are not already in force.

Section 72.

Section 131, in so far as it relates to the entries in Part 3 of Schedule 7 for sections 22(1) and 23(2)(a) of the TA 1985, and accordingly those repeals.

PART 2

TRANSITIONAL PROVISION IN RELATION TO COMMENCEMENT OF SECTION 59(2)

1.—(1) Notwithstanding the coming into force of section 59(2) of the Act (relaxation of rules on size of vehicle), any community bus permit granted before 6th April 2009 is to be valid only for the provision of a community bus service by means of a vehicle adapted to carry more than eight but not more than sixteen passengers.

(2) For the purposes of this Part the terms “community bus service” and “community bus permit” have the meanings given in section 22(1) of the TA 1985.

SCHEDULE 5

Article 4(2)

PROVISIONS COMING INTO FORCE ON 6TH APRIL 2009 AS RESPECTS ENGLAND

Sections 13 to 18, in so far as they are not already in force.

Section 131, in so far as it relates to the entry in Part 2 of Schedule 7 for section 116(2) of the TA 2000, and accordingly that repeal.

(a) The Public Passenger Vehicles Act 1981, as defined in section 132 of the Act.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force provisions of the Local Transport Act 2008 (“the Act”). The provisions are brought into force on different dates and, where the Act provides for the Welsh Ministers to commence provisions as respects Wales, provisions applying to both England and Wales are commenced in relation to England only. A number of transitional provisions are also made.

Except where otherwise stated, provisions are commenced as to their full geographical extent.

Article 2, and Schedules 1 and 2, commence the following provisions on 9th February 2009.

a) in Part 1 of the Act (the Traffic Commissioners), sections 1 and 6, which provide additional powers for the Secretary of State to make secondary legislation either to vary traffic areas, or as a consequence of the implementation of Part 1 of the Act.

b) in Part 2 (Transport policies), all the provisions other than section 9(1) and (3). Transitional provision is made as respects existing local transport policies and plans. Part 2 is commenced as respects England only.

c) in Part 3 (Bus services):

section 13(2), which replaces the requirement for a local transport authority to be satisfied that a quality partnership scheme would implement policies set out in the bus strategy. This amendment is consequential on the commencement of section 10 of the Act. Section 13(2) is commenced as respects England only.

section 46, which introduces a statutory definition of voluntary partnership agreements. This section also introduces Schedule 2 to the Act, which amends Schedule 10 to the Transport Act 2000 (competition test for exercise of bus functions). Section 46 is commenced as respects England only.

d) in Part 4 (General provisions relating to passenger transport):

section 47 and Schedule 3, which empower the Secretary of State to make regulations introducing a new regime for the detention of certain public service vehicles used in contravention of the operator licensing requirements.

section 50, which amends section 7 of the Transport Act 1985. The effect is to enable traffic regulation conditions to be made to address anticipated traffic problems, as well as traffic problems that have already arisen.

section 51, which transfers responsibility for determining appeals against traffic regulation conditions from the Secretary of State to the Transport Tribunal. The transitional provision in Part 2 of Schedule 1 to this Order provides that any appeals outstanding on the date on which this section comes into force will continue to be determined by the Secretary of State.

section 52, which extends the power of the Secretary of State to prescribe fees in connection with the registration of local bus services.

sections 62 to 65, which amend provisions in the Transport Acts of 1985 and 2000, to extend the powers of traffic commissioners to take enforcement action against operators. Sections 62 to 64 are subject to transitional provisions which prevent the use of the new powers in respect of failures which took place before the coming into force of those sections. Sections 64 and 65(1) are commenced as respects England only.

section 66, which revives certain powers of Passenger Transport Executives to lease any public services vehicles owned by them to operators of local services, and services operated under a permit issued under section 19 of the Transport Act 1985.

sections 67 to 70, which extend the powers of Passenger Transport Authorities and Executives, local authorities, and the Welsh Ministers to subsidise the provision of certain

passenger transport services. Section 68(2) is commenced as respects England and Scotland only, and section 68(3) and sections 69 and 70 as respects England only.

section 71, which removes certain disabilities and requirements for local authorities to seek the consent of the Secretary of State in connection with public transport companies. The transitional provision in Part 2 of Schedule 2 provides that any applications for consent which are outstanding on the date on which this section comes into force will no longer require the consent of the Secretary of State. This section is commenced as respects England only.

section 74, which empowers the Secretary of State to confer additional functions on the Rail Passengers' Council in relation to buses, domestic coach services and trams, and related facilities.

section 75, which empowers the Secretary of State to require certain bodies to display prescribed transport-related information. This section is commenced as respects England only.

section 76, which amends the powers of the Transport Tribunal in respect of appeals against the determinations of traffic commissioners.

e) in Part 5 (Integrated Transport Authorities Etc.):

section 77, which changes the name of passenger transport areas and Passenger Transport Authorities to integrated transport areas and Integrated Transport Authorities (ITAs).

sections 78 to 98, which contain powers to make changes to the constitutions and areas of existing ITAs and to create new ITAs.

sections 99 to 102, which give ITAs power to take action to promote or improve the economic, social or environmental well-being of their areas.

Part 5 has effect only in England.

f) in Part 6 (Local and London charging schemes):

sections 103 to 118, 120 and 121. Part 6 of the Act, other than section 119, amends provisions in Part 3 of the Transport Act 2000 and in Schedule 23 to the Greater London Authority Act 1999 (powers of local authorities and of the Greater London Authority to make road charging schemes). The amendments to the Transport Act 2000 are brought into force as respects England only; the amendments to the Greater London Authority Act 1999 are brought into force as respects England and Wales. Transitional provision is made as respects sections 110 and 111, which amend sections 169 and 170 of the Transport Act 2000.

section 119, which enables the Secretary of State to charge for supplying information to charging authorities in Scotland.

g) in Part 7 (Miscellaneous provisions):

section 125, which amends section 5 of the Goods Vehicles (Licensing of Operators) Act 1995 (vehicles used under operator's licence).

section 126, which amends Schedule 1A to that Act (detention of vehicles used without operator's licence).

section 128, which amends the definition of "conditional offer" in section 90F of the Road Traffic Offenders Act 1988.

sections 129 and 130, which enable the Secretary of State to disclose and use information relating to foreign vehicles.

h) in Part 8 (Supplementary provisions), section 131, so far as it relates to repeals in Schedule 7 relevant to the provisions brought into force on 9th February 2009, and those repeals.

Article 3, and Schedule 3, commence on 4th March 2009 section 3, in part, which provides a statutory basis for the appointment of a Senior Traffic Commissioner.

Article 4, and Schedules 4 and 5, commence the following provisions on 6th April 2009.

a) in Part 3, sections 13 to 18 (with the exception of section 13(2) which is brought into force on 9th February 2009) which amend powers in the Transport Act 2000 for local transport authorities to make quality partnership schemes. These sections are commenced as respects England only.

b) in Part 4:

section 48, which inserts new provisions into the Transport Act 1985, to enable restrictions to be imposed on the registration of local services where a quality partnership scheme is in force.

sections 53 and 54, which amend provisions in the Transport Act 1985 to enable holders of a private hire vehicle licence to apply for a special licence, under which such vehicles may be used to provide local bus services.

sections 57 to 61, which amend provisions in the Transport Act 1985 about vehicles used under community transport permits.

section 72, which amends Schedule 5 to the Transport Act 1985 to enable the Disabled Persons Transport Advisory Committee to remunerate its members out of funds provided by the Secretary of State.

c) in Part 8, section 131, so far as it relates to repeals in Schedule 7 relevant to the provisions brought into force on 6th April 2009, and those repeals.

Article 5 of the Order commences on 1st April 2011 section 9(1) and (3) of the Act. Section 9(1) and (3) is commenced as respects England only.

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STATUTORY INSTRUMENTS

2009 No. 107 (C. 08)

TRANSPORT

The Local Transport Act 2008 (Commencement No. 1 and
Transitional Provisions) Order 2009

£5.00