



Transport (Scotland) Act 2001

2001 asp 2

PART 2

BUS SERVICES

[^{F1}CHAPTER 2]

[^{F1}LOCAL SERVICES FRANCHISES]

Textual Amendments

- F1** Pt. 2 Ch. 2 substituted for ss. 13-27 and cross-heading (4.12.2023) by [Transport \(Scotland\) Act 2019](#) (asp 17), **ss. 38(2), 130(2)** (with s. 126); S.S.I. 2023/250, sch.

[^{F1}Franchising frameworks and franchise agreements]

^{F1}13 **Quality contract schemes**

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[^{F1}13A **Franchising frameworks and franchise agreements**

- (1) A local transport authority may make a franchising framework covering the whole or any part of their area.
- (2) To make a franchising framework a local transport authority must comply with the process set out in section 13C (and the requirements of the sections listed in that section).
- (3) A franchising framework is a framework under which—
 - (a) local services (other than those exempted from the framework by virtue of section 13D(2)) may be provided in the area to which the framework relates only under a franchise agreement, and
 - (b) the local transport authority determine—

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- (i) what local services are to be provided in the area to which the framework relates,
 - (ii) the standards to which the services are to be provided, and
 - (iii) any additional facilities or services that are to be provided in the area to which the framework relates.
- (4) In this Part, “franchise agreement”, in relation to a franchising framework, means an agreement under which—
- (a) the local transport authority grant to another person the exclusive right to operate the local services to which the agreement relates, and
 - (b) that person undertakes to provide those services on such terms (including in particular as to frequency, fares and standard of services) as may be specified in the agreement.
- (5) A franchise agreement may (but need not) include provision for—
- (a) the making of payments by the local transport authority to the person undertaking to provide the local service, or
 - (b) the making of payments by the person undertaking to provide the service to the authority.
- (6) A franchise agreement may include provision requiring one or more of the parties to provide additional facilities or services.
- (7) Section 88(1) of the 1985 Act (application to subsidy agreements of section 89 to 92 of that Act) does not apply in relation to franchise agreements.

13B Effects of franchising framework

- (1) During any period when a franchising framework is in operation in relation to any local service included in the framework—
- (a) sections 6 to 9 of the 1985 Act (registration of local services) do not have effect in relation to the service, and
 - (b) no such service is to be provided other than under a franchise agreement.
- (2) Subsection (3) applies where, in relation to a franchising framework—
- (a) a local service is not included in the framework, and
 - (b) the service is not excluded from the framework (see section 13D(2)(a)).
- (3) The local service is not, during the period of operation of the franchising framework, to be provided in the area to which the framework relates.
- (4) Subsection (5) applies where, in relation to a franchising framework—
- (a) a local service is excluded from the framework, and
 - (b) conditions are specified as to when the exclusion is to apply (see section 13D(2)(b)).
- (5) The specified conditions are to be treated, during the period of operation of the franchising framework, as if they were prescribed particulars of the service concerned registered under section 6 of the 1985 Act.]

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[^{F1}Process for making franchising frameworks]

[^{F1}13C Overview of process

- (1) Before making a franchising framework under section 13K, the local transport authority must—
 - (a) prepare a proposed franchising framework which meets the requirements of section 13D,
 - (b) prepare an assessment of the proposed framework in accordance with section 13E,
 - (c) obtain a report from an auditor in accordance with section 13F,
 - (d) carry out the consultation required under section 13G,
 - (e) make such modifications under section 13H (if any) as they consider appropriate in light of the consultation and, if they consider that it is required under subsection (3) of that section, repeat the steps in paragraphs (b) to (d) of this section,
 - (f) obtain approval to make the proposed framework (or the framework as modified) from a panel convened for that purpose by the traffic commissioner under section 13J,
 - (g) comply with such additional procedural requirements as may be prescribed.
- (2) Where the making of a proposed franchising framework has been approved under section 13J, it may be made by the local transport authority under section 13K.

13D Proposed franchising frameworks

- (1) A proposed franchising framework must specify—
 - (a) the area to which the framework relates,
 - (b) the local services which are to be provided under franchise agreements,
 - (c) that the framework is, in so far as relating to each local service included in it, to come into operation—
 - (i) on a date not earlier than 6 months after the day on which the local transport authority who made it enter into a franchise agreement in respect of that service, or
 - (ii) on such earlier date as the local transport authority may specify,
 - (d) the period during which it is to remain in operation,
 - (e) the standards to which services must be provided under franchise agreements.
- (2) A proposed franchising framework may—
 - (a) provide for the exemption of such local services or such descriptions of local services as the framework may specify, and
 - (b) specify conditions (if any) as to when such exemptions are to apply.
- (3) A proposed franchising framework may provide for such other matters as the local transport authority think fit.
- (4) If a proposed franchising framework relates to an area to which a partnership scheme also relates, the proposed franchising framework—
 - (a) must include—

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- (i) in a case where the partnership scheme relates only to the area to which the proposed franchising framework relates or a part of that area, provision revoking the partnership scheme, or
- (ii) in any other case, provision varying the partnership scheme so that it ceases to relate to any part of the area to which the proposed franchising framework relates, and
- (b) may include provision varying the partnership plan or, if appropriate, revoking the plan.

13E Assessment of proposed franchising framework

- (1) A local transport authority which propose to make a franchising framework covering the whole or any part of their area must prepare an assessment of the proposed framework.
- (2) The assessment must—
 - (a) set out how, and to what extent, the local transport authority consider the making of the proposed framework will contribute to the implementation of their relevant general policies,
 - (b) compare the making of the proposed framework to one or more other courses of action available to them to implement those policies,
 - (c) describe the expected effect of the proposed framework on any areas which are adjacent to the area of the framework,
 - (d) set out—
 - (i) how they intend to operate the proposed framework, and
 - (ii) the extent to which they consider that they will be able to secure that local services are operated under franchise agreements,
 - (e) set out their analysis of the financial implications for them of making the proposed framework,
 - (f) set out how they propose to review the effectiveness of the proposed framework once it is made.
- (3) The assessment may include such other matters as the local transport authority think fit.
- (4) In preparing an assessment under this section, a local transport authority must seek views about the proposed franchising framework from operators who, at the time of the assessment being prepared, are providing local services in the area to which the proposed framework relates.
- (5) The Scottish Ministers must issue guidance in relation to the preparation of an assessment under this section, and that guidance may, in particular, include guidance about methods to be used when assessing a proposed framework.

13F Audit of proposed franchising framework

- (1) This section applies if, after preparing an assessment of a proposed franchising framework under section 13E, a local transport authority wish to proceed with the proposed framework.
- (2) The local transport authority must obtain a report from an auditor on the analysis of the financial implications contained in the assessment.

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- (3) The auditor's report must state whether, in the opinion of the auditor—
 - (a) the information relied on by the local transport authority in conducting the analysis is of sufficient quality,
 - (b) the analysis of that information is of sufficient quality, and
 - (c) the local transport authority have had regard to the guidance issued under section 13E(5) in preparing the analysis.
- (4) An auditor must, when preparing a report under this section, have regard to any guidance issued by the Scottish Ministers in relation to the preparation of such reports.
- (5) In this section, “auditor” means a person who is eligible to be appointed as a statutory auditor under section 1211 of the Companies Act 2006.

13G Consultation on proposed franchising framework

- (1) This section applies if, after obtaining an auditor's report under section 13F, a local transport authority wish to proceed with the proposed franchising framework.
- (2) The local transport authority must give notice of their intention to make the proposed franchising framework in such manner as they consider appropriate for bringing the notice to the attention of persons in their area.
- (3) The notice referred to in subsection (2) must—
 - (a) describe the proposed franchising framework, including, in particular, the area to which it would relate,
 - (b) include a statement that the local transport authority consider that the proposed framework will contribute to the implementation of their relevant general policies, and
 - (c) state where copies of the consultation documents listed in subsection (5) may be viewed.
- (4) After giving notice of the proposed franchising framework, the local transport authority must consult—
 - (a) all operators of local services in the area to which the proposed framework relates,
 - (b) any other person holding a PSV operator's licence or community bus permit who, in the opinion of the authority, is likely to be affected by the proposed framework,
 - (c) such organisations appearing to the authority to be representative of employees of such operators as they think fit,
 - (d) such organisations appearing to the authority to be representative of users of local services as they think fit,
 - (e) each local transport authority and Transport Partnership whose area is, in the opinion of the authority, likely to be affected by the proposed framework,
 - (f) the traffic commissioner,
 - (g) the chief constable of the Police Service of Scotland,
 - (h) the Competition and Markets Authority,
 - (i) such other persons as the authority think fit.
- (5) The consultation documents are—
 - (a) the proposed franchising framework,

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- (b) a report on the assessment prepared under section 13E, including, in particular, a description of how the local transport authority consider the proposed framework will contribute to the implementation of their relevant general policies,
- (c) the report obtained from the auditor under section 13F,
- (d) such other documents (if any) that the local transport authority think will assist the consultees in considering the proposed framework.

13H Modification of proposed franchising framework

- (1) This section applies where, following consultation under section 13G, a local transport authority consider it appropriate to modify the proposed franchising framework.
- (2) The local transport authority may make such modifications to the proposed franchising framework as they consider appropriate.
- (3) If the local transport authority consider that the modifications materially affect any part of the assessment prepared under section 13E that relates to a matter set out in subsection (2) of that section, they must prepare a new assessment of the proposed framework as modified.
- (4) Sections 13E to 13G apply to any new assessment of the proposed framework as modified as they apply to the original proposed framework.
- (5) The Scottish Ministers must issue guidance in relation to the circumstances in which a local transport authority must prepare a new assessment of a proposed framework.

13I Application for approval of the proposed franchising framework

- (1) This section applies where, following a consultation under section 13G, a local transport authority—
 - (a) either—
 - (i) do not make any modifications to the proposed franchising framework, or
 - (ii) make modifications to the proposed framework, but consider they are not required to prepare a new assessment of the proposed framework under section 13H(3), and
 - (b) decide to proceed with making the proposed framework (as originally proposed or as modified).
- (2) The local transport authority must—
 - (a) request that the traffic commissioner convene a panel under section 13J(2) for the purpose of considering whether to approve the making of the proposed franchising framework, and
 - (b) provide the traffic commissioner with the documents listed in subsection (3).
- (3) The documents are—
 - (a) the consultation documents listed in paragraphs (a) to (c) of section 13G(5),
 - (b) the assessment (or the most recent assessment) prepared under section 13E,
 - (c) a summary of the responses received to the consultation carried out under section 13G and any action (other than a modification under section 13H) that was taken to address the responses,

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- (d) a description and explanation of any modifications made to the proposed franchising framework under section 13H.

13J Approval of proposed franchising frameworks

- (1) This section applies where the traffic commissioner has received a request to convene a panel under section 13I(2)(a).
- (2) The traffic commissioner must—
 - (a) give notice of the local transport authority seeking approval for the proposed franchising framework in such manner as the commissioner considers appropriate for bringing the notice to the attention of persons in the area of the authority,
 - (b) appoint three persons to form a panel to decide whether or not to approve the making of the proposed framework,
 - (c) provide the panel with the documents listed in section 13I(3), and
 - (d) provide the panel with any representations made to the commissioner in connection with the approval of making the proposed framework.
- (3) A notice given under subsection (2)(a) must state—
 - (a) that representations may be made to the traffic commissioner in relation to the application for approval of the making of the proposed franchising framework, and
 - (b) the period within which such representations may be made.
- (4) The panel may decide—
 - (a) to approve the making of the proposed franchising framework,
 - (b) to approve the making of the proposed framework subject to the local transport authority making such modifications to the proposed framework as the panel may specify, or
 - (c) not to approve the making of the proposed framework.
- (5) In making its decision under subsection (4), the panel must consider whether the local transport authority have—
 - (a) complied with the process set out in section 13C(1),
 - (b) had regard to the guidance issued by Scottish Ministers under section 13E(5),
 - (c) given appropriate weight to any matter prescribed for the purposes of this section, and
 - (d) otherwise, reached a reasonable conclusion in deciding to make the proposed franchising framework.

13K Making of franchising framework

- (1) This section applies where a panel convened under section 13J has approved the making of a proposed franchising framework.
- (2) The local transport authority may, not later than 6 months after the date of the approval, make the franchising framework.
- (3) Not later than 14 days after the date on which a franchising framework is made, the local transport authority must—

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- (a) give notice of their having made the framework in such manner as they consider appropriate for bringing the notice to the attention of persons in their area, and
 - (b) send a copy of the framework to the traffic commissioner.
- (4) A notice under subsection (3)(a) must state where a copy of the franchising framework may be viewed.
- (5) A franchising framework is, in so far as relating to a local service included in it, to come into operation—
- (a) in a case where the framework specifies the date on which it is to come into operation in respect of that service, on the date so specified, and
 - (b) subject to section 13M, in a case where no date is specified in the framework, on such date as is specified in or determined under the franchise agreement entered into in respect of the service.]

[^{F1}Entering into franchise agreements]

[^{F1}13L Entering into franchise agreements

- (1) This section applies where—
- (a) a local transport authority have made a franchising framework, and
 - (b) that framework has not expired under section 13Q or otherwise ceased to have effect.
- (2) The local transport authority may enter into franchise agreements in respect of local services to be provided under the framework.
- (3) A local transport authority may enter into a franchise agreement with a person only if that person holds—
- (a) an unconditional PSV operator's licence, or
 - (b) a community bus permit.
- (4) Not later than 14 days after the date on which a local transport authority enter into a franchise agreement, the local transport authority must—
- (a) give notice of their having made the agreement to—
 - (i) all operators of local services who are, in the opinion of the authority, likely to be affected by the agreement, and
 - (ii) the traffic commissioner, and
 - (b) publish the notice in such manner as the local transport authority consider appropriate for bringing the notice to the attention of persons in the area to which the franchising framework relates.
- (5) A notice under subsection (4) must state—
- (a) the local services to be provided under the franchise agreement,
 - (b) the date or dates on which the franchising framework is, in so far as it relates to the local services to be provided under the franchise agreement, to come into operation, and
 - (c) the duration of the franchise agreement.
- (6) For the purpose of subsection (3)(a), “unconditional”, in relation to a PSV operator's licence, means a licence which does not have attached to it a condition imposed under

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section 26 of the 1985 Act prohibiting or having the effect of prohibiting the holder from using vehicles under the licence to provide the service or services to which the franchising agreement in question relates.]

[^{F1}Postponement, variation and revocation of franchise frameworks]

[^{F1}13M Postponing commencement of franchising frameworks or variations

- (1) A local transport authority may, if they consider it appropriate, decide to postpone the date on which—
 - (a) a franchising framework, or
 - (b) the variation of a franchising framework,would, in so far as relating to a local service in it, come into operation by virtue of section 13K(5)(b) by such period as they think fit.
- (2) But the date on which a framework or variation comes into operation under subsection (1) must not be postponed by a period or periods which in total exceed 12 months.
- (3) Before postponing the date on which a framework or variation comes into operation under subsection (1), a local transport authority must consult all operators of local services who are, in the opinion of the local transport authority, likely to be affected by the postponement.
- (4) Not later than 14 days after the date on which a local transport authority postpone the date on which a framework or variation comes into operation under subsection (1), the local transport authority must—
 - (a) give notice of the postponement to—
 - (i) all operators of local services who are, in the opinion of the authority, likely to be affected by the postponement, and
 - (ii) the traffic commissioner, and
 - (b) publish the notice in such manner as the local transport authority consider appropriate for bringing the notice to the attention of persons in the area to which the franchising framework relates.
- (5) The Scottish Ministers may by regulations make provision in relation to postponements under this section including, in particular, provision reducing or extending the maximum period of postponement in subsection (2).

13N Applications for approval to vary or revoke franchising frameworks

- (1) This section applies where a local transport authority wish to vary or revoke a franchising framework they have made.
- (2) The local transport authority must—
 - (a) request that the traffic commissioner convene a panel under section 13O(2) for the purpose of considering whether to approve the proposed variation or revocation of the franchising framework, and
 - (b) provide the traffic commissioner with an application for approval to vary or, as the case may be, revoke the framework.
- (3) An application under subsection (2)(b) must—

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- (a) state the local transport authority's reasons for wishing to vary or revoke the framework,
 - (b) set out how, and to what extent, the local transport authority consider the variation or revocation will contribute to the implementation of their relevant general policies,
 - (c) in the case of a proposal to vary the framework—
 - (i) set out how it is proposed to vary the framework,
 - (ii) describe the expected effect that varying the framework will have on the matters set out in the assessment (or, if more than one, the most recent assessment) of the framework prepared under section 13E, and
 - (iii) if a new assessment is not being prepared, state that the local transport authority do not consider it necessary to prepare a new assessment of the framework as it is proposed to be varied,
 - (d) include any other information that the local transport authority think will assist the panel convened under section 13O in deciding whether or not to approve the proposed variation or revocation.
- (4) If a local transport authority consider that the proposed variation will materially affect any part of the assessment (or, as the case may be, the most recent assessment) prepared under section 13E that relates to a matter set out in subsection (2) of that section, they must prepare a new assessment of the proposed framework as varied.
- (5) Where a local transport authority consider under subsection (4) that they are required to prepare a new assessment—
- (a) sections 13E to 13H apply to the framework as it is proposed to be varied as they apply to a proposed franchising framework, and
 - (b) the local transport authority must, as part of the application under subsection (2)(b), provide to the traffic commissioner—
 - (i) the new assessment,
 - (ii) the report of the auditor on the new assessment,
 - (iii) a summary of the responses received to the consultation carried out under section 13G in respect of the new assessment and any action (other than a modification under section 13H) that was taken to address the responses, and
 - (iv) a description and explanation of any modifications made to the framework as it is proposed to be varied under section 13H.

13O Approval to vary or revoke franchising frameworks

- (1) This section applies where the traffic commissioner has received a request to convene a panel under section 13N(2)(a).
- (2) The traffic commissioner must—
- (a) give notice of the local transport authority's application to vary or revoke the proposed framework in such manner as the commissioner considers appropriate for bringing the notice to the attention of persons in the area of the authority,
 - (b) appoint three persons to form a panel to decide whether or not to approve the proposed variation or revocation of the franchising framework,
 - (c) provide the panel with the application provided to it under section 13N(2)(b),

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- (d) provide the panel with any representations made to the commissioner in connection with the application.
- (3) A notice given under subsection (2)(a) must state—
 - (a) that representations may be made to the traffic commissioner in relation to the proposed variation or revocation, and
 - (b) the period within which such representations may be made.
- (4) Where the application is to vary the framework, the panel may decide—
 - (a) to approve the proposed variation,
 - (b) to approve the proposed variation of the framework subject to the local transport authority making such modifications to the framework as it is proposed to be varied as the panel may specify, or
 - (c) not to approve the proposed variation.
- (5) Where the application is to revoke the framework, the panel may decide—
 - (a) to approve the revocation,
 - (b) to approve the revocation subject to the local transport authority taking such further action before revoking the framework as the panel may specify in its decision, or
 - (c) not to approve the revocation.
- (6) In making its decision under subsection (4) or, as the case may be (5), the panel must consider whether the local transport authority have reached a reasonable conclusion in deciding to vary or revoke the framework.
- (7) Where the panel has approved the variation or revocation of a framework, section 13K applies to that variation or revocation as it applies to the making of a framework.

13P Reports on franchising frameworks

- (1) A local transport authority must, in relation to each franchising framework made by them, for each successive period of 12 months during which the framework is in operation, prepare and publish a report on the effectiveness of the framework.
- (2) For the purposes of subsection (1), the first period is to begin on the date on which local services start to be provided under a franchise agreement entered into under the framework.
- (3) In preparing a report under subsection (1), the local transport authority must—
 - (a) consult such persons as they consider appropriate for the purpose of assessing the effectiveness of the framework, and
 - (b) consider any representations made to them (whether as part of the consultation or otherwise) in relation to the effectiveness of the framework during the period under review.

13Q Non-implementation of franchising frameworks

- (1) A franchising framework is to cease to have effect on the date which falls at the end of the period of 12 months beginning with the day on which the framework was made unless—

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- (a) the local transport authority which made the framework have entered into a franchise agreement in respect of each local service included in the framework, or
 - (b) subsection (3) applies.
- (2) Subsection (3) applies where—
- (a) within the period specified in subsection (1), the local transport authority—
 - (i) have failed to enter into a franchise agreement in respect of each local service included in the framework, and
 - (ii) have provided the traffic commissioner with an application for approval to vary the framework, and
 - (b) after the end of that period—
 - (i) the panel convened under section 13O to consider that application refuses to approve the proposed variation, or
 - (ii) the panel so convened has approved the proposed variation but the local transport authority have not varied the framework within the period specified in section 13K(2) (as applied by section 13O(7)).
- (3) The franchising framework is to cease to have effect—
- (a) on the date that the panel refuse to approve the variation, or
 - (b) as the case may be, on the date which falls at the end of the period of 6 months after the date of approval.
- (4) The Scottish Ministers may by regulations amend subsections (1) and (3) so as to provide for a different period from those for the time being specified in those subsections.

13R Provision of information: local services franchises

- (1) This section applies if a local transport authority are exercising any of the following functions—
- (a) preparing and making a franchising framework,
 - (b) reviewing the effectiveness of a franchising framework, or
 - (c) determining whether and how to vary, or revoke, a franchising framework.
- (2) The local transport authority may require an operator of a local service in the relevant area to provide them with such relevant information relating to the function being exercised as they may specify.
- (3) The local transport authority must specify the function it is exercising when requiring the provision of relevant information.
- (4) The operator may be required to provide the information —
- (a) in any form which, having regard to the manner in which the information is kept, it is reasonable to expect the operator to provide, and
 - (b) before the end of such period as may be specified by the local transport authority.
- (5) A local transport authority that have obtained relevant information under this section may only—
- (a) use the information for the purpose of exercising the function for which it was obtained, and

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- (b) supply the information to a person listed in subsection (6) for use in connection with that function.
- (6) The persons are—
- (a) a local transport authority,
 - (b) an auditor appointed by the local transport authority under section 13F,
 - (c) any other person providing services to the local transport authority in connection with the function being exercised,
 - (d) a panel appointed under section 13J(2) or 13O(2).
- (7) A person who receives relevant information under subsection (5)(b) must not disclose it to any other person or use it in connection with a purpose other than the specified function.
- (8) A person who, without reasonable excuse, discloses information in contravention of this section commits an offence.
- (9) A person who commits an offence under subsection (8) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (10) Where an offence under subsection (8) committed by a local transport authority is proved to have been committed with the consent or connivance of, or to be attributable to the neglect on the part of, a person employed by the authority, the person as well as the authority is guilty of the offence and liable to be proceeded against and punished accordingly.
- (11) In this section, “relevant information” means information of a description specified in regulations made by the Scottish Ministers.
- (12) Regulations under subsection (11) may specify circumstances in which relevant information (or types of relevant information) may not be required by a local transport authority.

13S Multi-authority franchising

- (1) Two or more local transport authorities may act jointly to make a franchising framework and enter into a franchise agreement (or agreements) under this chapter.
- (2) In those circumstances, unless the context otherwise requires, a reference in this chapter (other than this section) to—
- (a) a local transport authority, in relation to a franchising framework or a franchise agreement or to a proposed framework or agreement, is a reference to the authorities acting jointly,
 - (b) the area of a local transport authority is a reference to the combined areas of the authorities,
 - (c) the relevant general policies of a local transport authority is a reference to the relevant general policies of each local transport authority.
- (3) Where two or more local transport authorities act jointly to make a franchising framework or enter into a franchise agreement, they must continue to act jointly in relation to the framework or agreement in all respects.

Changes to legislation: Transport (Scotland) Act 2001, CHAPTER 2 is up to date with all changes known to be in force on or before 31 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

13T Further provision about franchising arrangements

- (1) The Scottish Ministers may by regulations make further provision for or in connection with the provisions of this chapter.
- (2) The regulations may, in particular, make provision with respect to—
 - (a) the process to be followed when making, varying or revoking a franchising framework, including—
 - (i) the form and content of any notice, statement, report, document or application required in connection with the process,
 - (ii) prescribing time periods for carrying out aspects of the process,
 - (iii) the assessment and audit of proposed franchising frameworks,
 - (iv) the consultation processes to be followed,
 - (v) the holding of inquiries or hearings in connection with objections or representations,
 - (vi) the approval of making proposed franchising frameworks or proposals to vary or revoke franchising frameworks,
 - (b) the standards and requirements that a franchising framework may specify in respect of the accessibility of local services for disabled persons and persons with limited mobility,
 - (c) the local services, or descriptions of local services that must, or may, be exempted from franchising frameworks and the conditions that must, or may, be attached to such exclusions,
 - (d) the panels to be convened under section 13J(2) and 13O(2) and their functions, including provision about—
 - (i) the appointment, removal and replacement of members (including the criteria to be considered for appointment as a panel member),
 - (ii) the remuneration of panel members (including as to payment of panel members' expenses),
 - (iii) the process to be followed by the panel in making decisions.
- (3) The regulations may also make transitional provision in connection with—
 - (a) the coming into operation of franchising frameworks,
 - (b) the variation of frameworks, and
 - (c) the ending of frameworks (whether or not as a result of their revocation).
- (4) In particular, regulations in pursuance of subsection (3) may provide for the application, disapplication or modification of the effect of any provision of section 6 to 9 of the 1985 Act in such circumstances as may be prescribed.
- (5) In this chapter, “prescribed” means prescribed by regulations made under this section.]

^{F1}**14 Proposed quality contract scheme**

^{F1}**15 Consultation as to proposed quality contract scheme**

Changes to legislation: Transport (Scotland) Act 2001, CHAPTER 2 is up to date with all changes known to be in force on or before 31 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F1 16 Approval of proposed quality contract scheme**
.....
- F1 17 Making of quality contract scheme**
.....
- F1 18 Tendering for quality contracts**
.....
- F1 19 Exceptions from section 18(1)**
.....
- F1 20 Commencement of quality contract scheme**
.....
- F1 21 Postponement of quality contract scheme**
.....
- F1 22 Effect of quality contract scheme**
.....
- F1 23 Variation or revocation of quality contract scheme**
.....
- F1 24 Reports on quality contract schemes**
.....
- F1 25 Non-implementation of quality contract scheme**
.....
- F1 26 Regulations as respects quality contract schemes**
.....
- F1 27 Transitional provision as respects quality contract schemes**
.....

Changes to legislation: Transport (Scotland) Act 2001, CHAPTER 2 is up to date with all changes known to be in force on or before 31 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

[^{F2}27C National Smart Ticketing Advisory Board

- (1) The Scottish Ministers must establish an advisory committee to be known as the National Smart Ticketing Advisory Board (“the Board”).
- (2) The function of the Board is to advise the Scottish Ministers in relation to their functions insofar as they relate to—
 - (a) smart ticketing arrangements, and
 - (b) the national technological standard for smart ticketing.
- (3) The Board also has the function of issuing advice and recommendations to the Scottish Ministers in relation to the strategic development of smart ticketing in Scotland.
- (4) The Scottish Ministers may by regulations make provision about the Board, including provision about—
 - (a) the appointment, removal and replacement of members,
 - (b) the remuneration of members (including as to payment of a member's expenses),
 - (c) the process by which the Board makes decisions.
- (5) Before making regulations under subsection (4), the Scottish Ministers must consult—
 - (a) all local transport authorities,
 - (b) such organisations appearing to Scottish Ministers to be representative of users of local services and connecting rail or ferry services as they think fit,
 - (c) such organisations appearing to Scottish Ministers to be representative of operators of local services and connecting rail or ferry services as they think fit,
 - (d) such other persons as they think fit.]

Textual Amendments

F2 S. 27C inserted (10.1.2022) by virtue of [Transport \(Scotland\) Act 2019 \(asp 17\)](#), **ss. 43(2)**, 130(2) (with s. 126); [S.S.I. 2021/428](#), reg. 2, sch.

Ticketing arrangements and ticketing schemes

28 Ticketing arrangements

- (1) Each local transport authority shall from time to time determine what ticketing arrangements should be made available for their area (in this section referred to as the “required ticketing arrangements”).
- (2) Before making such a determination, the authority shall consult such organisations appearing to the authority to be representative of users of local services as they think fit.
- (3) Each authority shall from time to time ascertain whether the required ticketing arrangements are being made available.
- (4) If an authority ascertain that the required ticketing arrangements are not being made available, that authority shall seek to make arrangements with the operator or operators

Changes to legislation: Transport (Scotland) Act 2001, CHAPTER 2 is up to date with all changes known to be in force on or before 31 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

of the local services concerned under which the operator or operators agree to make the required ticketing arrangements available.

(5) In this section and in section 29 of this Act “ticketing arrangements” means arrangements under which persons may become entitled—

- (a) to make more than one journey on particular local services (whether or not operated by the same person);
- (b) to make a particular journey on two or more local services (whether or not operated by the same person); or
- (c) where a particular journey could be made on local services provided by either (or any) of two or more operators, to make the journey on whichever service the holder chooses,

by entering into a single transaction of such description as the operator or operators of such services may require.

Modifications etc. (not altering text)

- C1** S. 28 modified (27.4.2006) by [Edinburgh Tram \(Line Two\) Act 2006 \(asp 6\), s. 54\(2\)](#) (with s. 75)
- C2** S. 28 modified (8.5.2006) by [Edinburgh Tram \(Line One\) Act 2006 \(asp 7\), s. 54\(2\)](#) (with ss. 76, 84)
- C3** Ss. 28-31: transfer of functions (1.11.2006) by [Transfer of Functions to the Shetland Transport Partnership Order 2006 \(S.S.I. 2006/527\)](#), arts. 1, 3, [Sch. 1](#) (with art. 5)
- C4** Ss. 28-31: transfer of functions (7.11.2006) by [Transfer of Functions to the South-West of Scotland Transport Partnership Order 2006 \(S.S.I. 2006/538\)](#), art. 1, [Sch. 1](#) (with art. 5)

29 Ticketing schemes

- (1) If a local transport authority are unable to make satisfactory arrangements in pursuance of section 28(4) of this Act they, 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 their relevant general policies.
- (2) In this section (other than subsection (1) above) and in sections 30 and 31 of this Act any reference to a local transport authority shall be construed, in any case where a ticketing scheme is made (or proposed to be made) by two or more such authorities acting jointly, as a reference to both (or, as the case may be, all) of those authorities.
- (3) A ticketing scheme is a scheme under which operators of local services of a class specified in the scheme are required to make and implement ticketing arrangements.
- (4) A ticketing scheme may not be made unless the authority have complied with the notice and consultation requirements imposed by section 30 of this Act.
- (5) A ticketing scheme may, for the purposes of making provision in relation to journeys such as are mentioned in paragraph (a) of section 28(5) of this Act, specify a class of local services.
- (6) A ticketing scheme may specify different arrangements in respect of different classes of local service.

Changes to legislation: Transport (Scotland) Act 2001, CHAPTER 2 is up to date with all changes known to be in force on or before 31 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Modifications etc. (not altering text)

- C3** Ss. 28-31: transfer of functions (1.11.2006) by [Transfer of Functions to the Shetland Transport Partnership Order 2006 \(S.S.I. 2006/527\)](#), arts. 1, 3, **Sch. 1** (with art. 5)
- C4** Ss. 28-31: transfer of functions (7.11.2006) by [Transfer of Functions to the South-West of Scotland Transport Partnership Order 2006 \(S.S.I. 2006/538\)](#), art. 1, **Sch. 1** (with art. 5)
- C5** S. 29 modified (27.4.2006) by [Edinburgh Tram \(Line Two\) Act 2006 \(asp 6\)](#), **s. 54(2)** (with s. 75)
- C6** S. 29 modified (8.5.2006) by [Edinburgh Tram \(Line One\) Act 2006 \(asp 7\)](#), **s. 54(2)** (with ss. 76, 84)

30 Consultation as to proposed ticketing scheme

- (1) If a local transport authority propose to make a ticketing scheme, they shall give notice of the proposed scheme in at least one local newspaper circulating in the area to which it relates.
- (2) The notice shall specify the date on which it is proposed that the proposed scheme will come into operation.
- (3) After giving notice of the proposed scheme, the authority shall consult—
 - (a) all operators of local services who are, in the opinion of the authority, likely to be affected by it;
 - (b) such organisations appearing to the authority to be representative of users of local services as they think fit;
 - (c) the traffic commissioner; and
 - (d) such other persons as the authority think fit.

Modifications etc. (not altering text)

- C3** Ss. 28-31: transfer of functions (1.11.2006) by [Transfer of Functions to the Shetland Transport Partnership Order 2006 \(S.S.I. 2006/527\)](#), arts. 1, 3, **Sch. 1** (with art. 5)
- C4** Ss. 28-31: transfer of functions (7.11.2006) by [Transfer of Functions to the South-West of Scotland Transport Partnership Order 2006 \(S.S.I. 2006/538\)](#), art. 1, **Sch. 1** (with art. 5)

31 Making of ticketing scheme

- (1) If, having complied with section 30 of this Act, the authority decide that it is appropriate to make a ticketing scheme, they may make it—
 - (a) in the form proposed; or
 - (b) subject to such modifications as they may specify.
- (2) The scheme shall specify the date (being a date not earlier than 3 months after the date on which the scheme is made) on which it is to come into operation.
- (3) Not later than 14 days after the date on which a scheme is made, the authority shall give notice of it—
 - (a) in at least one local newspaper circulating in the area to which the scheme relates;
 - (b) to all operators of local services who are, in the opinion of the authority, likely to be affected by it;
 - (c) to the traffic commissioner; and

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- (d) in such other manner, or to such other persons or class of person (if any), as the Scottish Ministers may prescribe by regulations.
- (4) The notice shall—
- (a) set out the scheme and the date on which it is to come into operation; and
 - (b) identify the classes of local service which will be affected by it.

Modifications etc. (not altering text)

- C3** Ss. 28-31: transfer of functions (1.11.2006) by [Transfer of Functions to the Shetland Transport Partnership Order 2006 \(S.S.I. 2006/527\)](#), arts. 1, 3, **Sch. 1** (with art. 5)
- C4** Ss. 28-31: transfer of functions (7.11.2006) by [Transfer of Functions to the South-West of Scotland Transport Partnership Order 2006 \(S.S.I. 2006/538\)](#), art. 1, **Sch. 1** (with art. 5)

32 Effect of ticketing scheme

- (1) During any period in which a ticketing scheme is in operation, operators of local services to which the scheme relates shall make and implement the arrangements required by the scheme.
- (2) The arrangements required by a ticketing scheme shall be treated, during any period in which the scheme is in operation, as if they were prescribed particulars registered under section 6 of the 1985 Act (registration of local services) of the service concerned.

Provision of information

33 Information about bus services

- (1) Each local transport authority shall from time to time determine, having regard to their relevant general policies—
 - (a) what local bus information should be made available to the public (in this section referred to as the “required information”); and
 - (b) the way in which it should be made available (in this section and in section 34 of this Act referred to as the “appropriate way”).
- (2) Before making such a determination, the authority shall consult—
 - (a) the traffic commissioner;
 - (b) such organisations appearing to the authority to be representative of users of local services as they think fit; and
 - (c) such other persons as the authority think fit.
- (3) Each authority shall from time to time ascertain whether the required information is being made available to the public in the appropriate way.
- (4) If an authority ascertain that the required information is not being made available to the public in the appropriate way the authority shall seek to make arrangements with the operator or operators of the local services concerned under which the operator or operators agree to make the information available in that way.
- (5) In this section—
 - “local bus information”, in relation to a local transport authority, means—

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- (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 (within the meaning of the 1985 Act) or other matters of value to the public as the authority consider appropriate in relation to their area; and
- “travel concession” has the meaning given by section 68(7) of this Act.
- (6) This section and sections 34 and 35 of this Act do not apply to any local authority to the extent that any part of the area of the authority is comprised in the passenger transport area of the Strathclyde Passenger Transport Authority.

Modifications etc. (not altering text)

- C7** Ss. 33-35: transfer of functions (1.11.2006) by [Transfer of Functions to the Shetland Transport Partnership Order 2006 \(S.S.I. 2006/527\)](#), arts. 1, 3, **Sch. 1** (with art. 5)
- C8** Ss. 33-35: transfer of functions (7.11.2006) by [Transfer of Functions to the South-West of Scotland Transport Partnership Order 2006 \(S.S.I. 2006/538\)](#), art. 1, **Sch. 1** (with art. 5)

34 Duty of authority to make information available

- (1) If a local transport authority are unable to make satisfactory arrangements in pursuance of section 33(4) of this Act, they, or two or more such authorities acting jointly—
- (a) shall make available, or secure that there is made available, in such manner as they determine, such information as is not being made available in the appropriate way in their area, or each of their areas (whether by virtue of arrangements made under section 33(4) of this Act or otherwise); and
 - (b) may recover from the operator or operators of the local services concerned 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) above what is reasonable in relation to a particular operator, the authority, or as the case may be authorities, shall 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, or as the case may be authorities, require an operator to provide information to them or another person in order to perform their duty under subsection (1)(a) above, the operator shall provide the information at such times and in such manner as may be specified by the authority (or authorities).
- (4) The authority, or as the case may be authorities, shall give notice to the traffic commissioner of any requirement imposed under subsection (3) above.

Modifications etc. (not altering text)

- C7** Ss. 33-35: transfer of functions (1.11.2006) by [Transfer of Functions to the Shetland Transport Partnership Order 2006 \(S.S.I. 2006/527\)](#), arts. 1, 3, **Sch. 1** (with art. 5)

Changes to legislation: Transport (Scotland) Act 2001, CHAPTER 2 is up to date with all changes known to be in force on or before 31 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- C8** Ss. 33-35: transfer of functions (7.11.2006) by [Transfer of Functions to the South-West of Scotland Transport Partnership Order 2006 \(S.S.I. 2006/538\)](#), art. 1, **Sch. 1** (with art. 5)

35 Bus information: supplementary

In carrying out their functions under sections 33 and 34 of this Act, local transport authorities—

- (a) shall act in the manner which is, in the opinion of the authority, most economic, efficient and effective; and
- (b) shall not act in such a way as to discriminate (whether directly or indirectly) against any operator, or class of operator, of local services.

Modifications etc. (not altering text)

- C7** Ss. 33-35: transfer of functions (1.11.2006) by [Transfer of Functions to the Shetland Transport Partnership Order 2006 \(S.S.I. 2006/527\)](#), arts. 1, 3, **Sch. 1** (with art. 5)
- C8** Ss. 33-35: transfer of functions (7.11.2006) by [Transfer of Functions to the South-West of Scotland Transport Partnership Order 2006 \(S.S.I. 2006/538\)](#), art. 1, **Sch. 1** (with art. 5)

Financial and competition provisions

36 Agreements providing for service subsidies

- (1) Part V of the 1985 Act (expenditure on public passenger transport services) shall be amended as follows.
- (2) In section 89 (obligation to invite tenders for subsidised services)—
- (a) in subsection (7), after “section” there shall be inserted “ for the provision of services other than those mentioned in subsection (9) below ”; and
 - (b) after subsection (8) there shall be inserted—
 - “(9) An authority issuing an invitation to tender under this section for the provision of any service for the carriage of passengers by road which requires, for the purposes of Part IV of this Act, a PSV operator’s licence, 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—
 - (i) their local transport strategy; and
 - (ii) the general policies formulated by them under section 63(2)(b) of this Act or section 9A(1) of the Transport Act 1968 (c.73), as the case may be; and
 - (c) the reduction or limitation of traffic congestion, noise or air pollution.
- (10) In subsection (9)(b)(i) above, “local transport strategy” has the meaning given by section 82(1) of the Transport (Scotland) Act 2001 (asp 2).”.

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- (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 there shall be substituted “ accords with section 89(7), or as the case may be (9), 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” to “provide” there shall be substituted “ have regard to the interests of the public and of persons providing ”.

37 Competition test for exercise of bus functions

- (1) The functions to which this section applies are those of—
 - (a) making and varying [^{F3}partnership schemes];
 - (b) making and varying ticketing schemes; and
 - (c) inviting and accepting tenders under section 89 or 91 of the 1985 Act (subsidised services).
- (2) For the purposes of this section an authority or authorities propose to exercise a function to which this section applies—
 - (a) in the case of the function of making or varying a [^{F4}partnership scheme], once notice of a proposal to make or vary it has been given under [^{F5}paragraph 6(2) or, as the case may be, 14(1) of schedule A1] of this Act;
 - (b) in the case of the function of making or varying a ticketing scheme, once notice of a proposal to make or vary it has been given under section 30(1) of this Act; and
 - (c) in the case of the function of inviting or accepting tenders under section 89 or 91 of the 1985 Act, once it is proposed to invite tenders under section 89(2) or 91(3) of that Act or to accept or not to accept a tender under section 89 of that Act.
- (3) For the purposes of this section the exercise or proposed exercise of a function to which this section applies meets the competition test unless it—
 - (a) has or is likely to have a significantly adverse effect on competition; and
 - (b) is not justified by subsection (4) below.
- (4) The exercise or proposed exercise of a function is justified if—
 - (a) it is with a view to achieving one or more of the purposes specified in subsection (5) below; and
 - (b) its effect on competition is or is likely to be proportionate to the achievement of that purpose or any of those purposes.
- (5) The purposes referred to in subsection (4) above are—
 - (a) securing improvements in the quality of vehicles or facilities used for or in connection with the provision of local services;
 - (b) securing other improvements in local services of substantial benefit to users of local services; and
 - (c) reducing or limiting traffic congestion, noise or air pollution.

Changes to legislation: Transport (Scotland) Act 2001, CHAPTER 2 is up to date with all changes known to be in force on or before 31 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

- F3** Words in s. 37(1)(a) substituted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\), s. 130\(2\), sch. para. 3\(3\)\(a\)](#) (with s. 126); S.S.I. 2023/250, sch.
- F4** Words in s. 37(2)(a) substituted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\), s. 130\(2\), sch. para. 3\(3\)\(b\)\(i\)](#) (with s. 126); S.S.I. 2023/250, sch.
- F5** Words in s. 37(2)(a) substituted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\), s. 130\(2\), sch. para. 3\(3\)\(b\)\(ii\)](#) (with s. 126); S.S.I. 2023/250, sch.

38 Grants to bus service operators

- (1) The Scottish Ministers may make grants to operators of eligible bus services towards their costs in operating those services.
- (2) The Scottish Ministers may make provision by regulations as to the method of calculation of grants.
- (3) Subject to any regulations under subsection (2) above, grants under this section shall be of such amount and subject to such conditions (including conditions requiring their repayment in specified circumstances) as the Scottish Ministers may determine.
- (4) A determination under subsection (3) above may be made either generally or in relation to particular cases or classes of case.
- (5) In this section “eligible bus services” means services of a class using public service vehicles (or such services using a class of public service vehicles) prescribed by regulations made by the Scottish Ministers.
- (6) Section 92 of the Finance Act 1965 (c.25) (grants towards duty charged on bus fuel) and section 111 of the 1985 Act (unregistered and unreliable local services: reduction of fuel duty grant) are repealed.

Commencement Information

- II** [S. 38](#) wholly in force; [s. 38](#) not in force at Royal Assent see. [84\(2\)](#); [s. 38\(2\)](#) in force at 1.4.2001; S.S.I. [2001/132](#), [art. 2 Sch.](#); [s. 38](#) in force at 1.7.2002 insofar as not already in force by S.S.I. [2002/291](#) art. 2(a)

39 Penalties

- (1) Where the traffic commissioner 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 1985 Act;
 - (b) operated a local service in contravention of that section or section [\[^{F6}3F\(1\) or 13B\(1\)\(b\) or \(3\)\]](#) of this Act; ^{F7}...
 - [\[^{F8}\(ba\)](#) failed to comply with a requirement under section 6ZA of the 1985 Act,]
 - [\[^{F9}\(bb\)](#) failed to comply with a requirement to provide information (including a requirement to provide it within a specified time or in a specified form) under section 3K(2) or 13R(2),]
 - (c) failed to comply with section 32(1) or 34(3) of this Act [\[^{F10}; or \]](#)

Changes to legislation: Transport (Scotland) Act 2001, CHAPTER 2 is up to date with all changes known to be in force on or before 31 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- [^{F10}(d) failed to comply with a requirement of regulations made under section 181A of the Equality Act 2010,]
 the commissioner may impose a penalty on the operator.
- (2) Subject to subsection (3) below, a penalty imposed under subsection (1) above shall be of such amount as the traffic commissioner thinks fit in all the circumstances of the case.
- (3) The amount of a penalty mentioned in subsection (2) above shall not exceed—
- (a) £550; or
 - (b) such other amount as the Scottish Ministers 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.
- (4) Any penalty imposed under subsection (1) above shall be payable to the Scottish Ministers.
- (5) Where a penalty has been imposed on an operator under subsection (1) above, the traffic commissioner shall forthwith give notice in writing to—
- (a) the Scottish Ministers; and
 - (b) the operator.
- (6) Any operator on whom a penalty has been imposed under subsection (1) above may appeal to the Transport Tribunal against the imposition of the penalty.
- (7) Any amount due under this section shall be recoverable as a civil debt.

Textual Amendments

- F6** Words in s. 39(1)(b) substituted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\), s. 130\(2\), sch. para. 3\(4\)\(a\)](#) (with s. 126); [S.S.I. 2023/250, sch.](#)
- F7** Word in s. 39(1) omitted (26.6.2018) by virtue of [Bus Services Act 2017 \(c. 21\), ss. 17\(6\)\(a\), 26\(2\); S.I. 2018/758, reg. 2](#)
- F8** S. 39(1)(ba) inserted (28.11.2022) by [Transport \(Scotland\) Act 2019 \(asp 17\), ss. 39\(2\), 130\(2\)](#) (with s. 126); [S.S.I. 2022/332, reg. 2, sch.](#)
- F9** S. 39(1)(bb) inserted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\), s. 130\(2\), sch. para. 3\(4\)\(b\)](#) (with s. 126) (as amended (27.11.2023) by [S.S.I. 2023/347, regs. 1\(1\), 2\(7\)\(a\)](#)); [S.S.I. 2023/250, sch.](#)
- F10** S. 39(1)(d) and word inserted (26.6.2018) by [Bus Services Act 2017 \(c. 21\), ss. 17\(6\)\(b\), 26\(2\); S.I. 2018/758, reg. 2](#)

40 Repayment of grants towards bus fuel duty

- (1) Section 111 of the 1985 Act (unregistered and unreliable local services: requirement to repay twenty per cent. of bus fuel duty grants) shall be amended as follows (until the coming into force of section 38(6) of this Act).
- (2) For subsection (1) there shall be substituted—
- “(1) Where the traffic commissioner for the Scottish 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 this Act;

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- (b) operated a local service in contravention of that section or section 8(4) or 22(1)(b) or (2) of the Transport (Scotland) Act 2001 (asp 2); or
 - (c) failed to comply with section 32(1) or 34(3) of that Act,
- he may make a determination to that effect.”.
- (3) In subsection (3), for the words “twenty per cent.” there shall be substituted “ such percentage as the traffic commissioner thinks fit ”.
- (4) After subsection (3) there shall be inserted—
- “(3A) The percentage determined under subsection (3) above shall be at least one per cent. but not more than twenty per cent.”.

Commencement Information

- I2** S. 40 wholly in force at 1.7.2001; s. 40 not in force at Royal Assent see s. 84(2); s. 40(1)(3)(4) in force at 1.4.2001 and s. 40(2) in force at 1.7.2001 by S.S.I. 2001/132, art. 2 Sch.

Miscellaneous

41 Bus User Complaints Tribunal

- (1) The Scottish Ministers may by regulations establish a tribunal to be known as the Bus User Complaints Tribunal (referred to in this section as the “Tribunal”) for the purpose of determining any written complaint made by or on behalf of any individual—
- (a) about the manner in which a relevant complaint has been dealt with; or
 - (b) appealing against a decision made on a relevant complaint.
- (2) Any Tribunal established by virtue of subsection (1) above shall consist of—
- (a) a convener; and
 - (b) two other members,
- appointed by the Scottish Ministers.
- (3) Regulations under subsection (1) above may in particular make provision for or in connection with—
- (a) the form of written complaints and the time within which they may be submitted for determination by the Tribunal;
 - (b) the procedure to be followed by the Tribunal in determining complaints;
 - (c) the matters to which the Tribunal shall have regard in determining complaints;
 - (d) the powers of the Tribunal on making determinations (including, without prejudice to the generality of this paragraph, power requiring the payment of compensation);
 - (e) the tenure of office of members of the Tribunal;
 - (f) the payment of remuneration and allowances to members of the Tribunal;
 - (g) the making of reports to the Scottish Ministers on such matters, and at such times, as may be specified in the regulations;
 - (h) requiring the Scottish Ministers to lay before the Scottish Parliament copies of any reports made under paragraph (g) above;
 - (i) the making of reports to the traffic commissioner on such matters, and at such times, as may be specified in the regulations;

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- (j) appeals from determinations of the Tribunal;
 - (k) such other matters as the Scottish Ministers consider necessary or expedient for the purpose of enabling the Tribunal to perform its functions.
- (4) Where a Tribunal is established by virtue of subsection (1) above, the traffic commissioner shall—
- (a) provide, or make available, to the Tribunal such staff as the Scottish Ministers consider necessary;
 - (b) pay—
 - (i) any remuneration and allowances due to members of the Tribunal or staff of the Tribunal; and
 - (ii) any other expenses relating to the establishment or operation of the Tribunal; and
 - (c) provide the Tribunal with such other assistance as it may reasonably request for the purposes of performing its functions.
- (5) Any compensation payable by virtue of subsection (3)(d) above shall be recoverable as a civil debt.
- (6) The Scottish Ministers shall pay to the traffic commissioner such amount as is agreed between them to be appropriate to reimburse any expenditure incurred by the commissioner by virtue of subsection (4) above.
- (7) In subsection (1) above “relevant complaint” means any written complaint made by or on behalf of any individual to an operator of [F11]bus] services which relates to the operation of any [F11]bus] service operated by such operator.
- [F12](8) In subsection (7) above, “bus service” means—
- (a) a local bus service; or
 - (b) a service which—
 - (i) uses one or more public service vehicles for the carriage of passengers by road at separate fares;
 - (ii) operates between places at least one of which is in Scotland; and
 - (iii) is not a local service.]

Textual Amendments

- F11** Word in s. 41(7) substituted (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 50(a)**, 54(2); [S.S.I. 2005/454](#), art. 2, Sch. 2
- F12** S. 41(8) inserted (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 50(b)**, 54(2); [S.S.I. 2005/454](#), art. 2, Sch. 2

42 Traffic regulation conditions to reduce or limit noise or air pollution

In subsection (4) of section 7 of the 1985 Act (reasons for which traffic regulation conditions may be determined)—

- (a) the word “or” immediately after paragraph (a) is repealed; and
- (b) after paragraph (b) there shall be inserted “; or
- (c) reduce or limit noise or air pollution.”.

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43 Power to obtain information about local services

- (1) A local transport authority may, in connection with the formulation of their relevant general policies, require an operator of local services to provide them with any information relating to the matters mentioned in subsection (2) below which is in the possession or control of the operator; and the operator shall comply with any such requirement.
 - (2) The matters 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 such area;
 - (b) the structure of fares for those journeys; and
 - (c) the total distance covered by vehicles used by the operator in operating those local services.
 - (3) An operator may be required to provide information under this section in any form in which, having regard to the manner in which the information is kept, it is reasonable to expect the operator to provide it.
 - (4) Subject to subsection (5) below, no information which—
 - (a) has been provided to a local transport authority under this section, or provided together with information so provided; and
 - (b) relates to the affairs of an individual or to a particular business,shall be disclosed by such authority during the lifetime of the individual or while the business continues to be carried on.
 - (5) Subsection (4) above does not apply to a disclosure—
 - (a) made with the consent of the individual or the person for the time being carrying on the business;
 - (b) of information provided by virtue of section 10(3) or 24(3) of this Act;
 - (c) made in connection with the investigation of crime or for the purposes of criminal proceedings;
 - (d) made for the purposes of civil proceedings brought by virtue of this Act or the 1985 Act;
 - (e) made in order to comply with the order of a court or tribunal; or
 - (f) made in respect of a local service—
 - (i) if the operator of such service has given notice in writing to the local transport authority or the traffic commissioner of the operator’s intention to cease operating such service from a date specified in the notice; or
 - (ii) if, having failed to provide notice such as is mentioned in subparagraph (i) above, such operator has ceased to operate such service.
- [^{F13}(5A) For the avoidance of doubt, subsection (5)(f) does not apply if (or to the extent that) the operator was also required to provide the information by the local transport authority as an affected authority under section 6ZA(2) of the 1985 Act (provision of service information when varying or cancelling registration).]
- (6) A local transport authority who, without reasonable excuse, disclose information in contravention of subsection (4) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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- (7) Where an offence under subsection (6) above committed by a local transport authority is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a person employed by the authority, the person as well as the authority is guilty of the offence and liable to be proceeded against and punished accordingly.

Textual Amendments

F13 S. 43(5A) inserted (28.11.2022) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), **ss. 39(3)**, 130(2) (with s. 126); [S.S.I. 2022/332](#), [reg. 2](#), [sch.](#)

44 Civil penalties for bus lane contraventions

- (1) The Scottish Ministers may by regulations make provision for or in connection with—
- (a) the imposition by approved local authorities of charges in respect of bus lane contraventions; and
 - (b) the payment of such charges.
- (2) An authority is an approved local authority if—
- (a) an order designating the whole or any part of their area has been made under paragraph 1(1)(d) or 2(1)(c) of Schedule 3 to the Road Traffic Act 1991 (c.40) (permitted and special parking areas outside London); and
 - (b) the Scottish Ministers have made an order specifying them as an approved local authority for the purposes of this section.
- (3) A bus lane contravention is a contravention of any such provision of—
- (a) a traffic regulation order;
 - (b) an experimental traffic order; or
 - (c) a temporary traffic restriction order,
- as relates to the use of an area of road which is or forms part of a bus lane.
- (4) For the purposes of subsection (3) above, an area of road is or forms part of a bus lane if the order in question provides that it may be used—
- (a) only by buses; or
 - (b) only by buses and some other class or classes of traffic specified in the order.
- (5) Regulations under subsection (1) above shall include provision—
- (a) for the setting of the rates of charges (which may include provision for surcharges or discounts) by approved local authorities;
 - (b) that any rates set by virtue of paragraph (a) above shall be effective only if they have been approved by the Scottish Ministers;
 - (c) specifying that any charge shall be paid—
 - (i) by the registered keeper of the motor vehicle; or
 - (ii) in such circumstances as may be specified in the regulations, by such other person as may be so specified;
 - (d) permitting the imposition of a charge only on the basis of a record produced by an approved device;
 - (e) securing that a charge in respect of a bus lane contravention shall not require to be paid, or shall be refunded, where—

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- (i) the contravention is the subject of criminal proceedings; or
 - (ii) a fixed penalty notice has been given in respect of the contravention;and
 - (f) that any sums paid by way of charges to an approved local authority shall be available only for application by such authority for the purpose of directly or indirectly facilitating the achievement of policies in such authority's local transport strategy.
- (6) Regulations under subsection (1) above may—
- (a) specify exemptions from charges; and
 - (b) make provision about the keeping of accounts, and the preparation and publication of statements of account, relating to sums paid by way of charges.
- (7) The Scottish Ministers may make regulations about the notification, adjudication and enforcement of charges.
- (8) Regulations under subsection (7) above may include—
- (a) provision creating criminal offences to be triable summarily and punishable with a fine not exceeding level 5 on the standard scale or such lower amount as may be prescribed by the regulations; and
 - (b) provision for or in connection with permitting sufficient evidence of a fact to be given by the production of a record produced by an approved device with a certificate as to the circumstances in which the record was produced,
- but may not confer power to stop motor vehicles.
- (9) In this section—
- “approved device” means a device of a description specified in an order made for the purposes of this section by the Scottish Ministers;
 - “experimental traffic order” means an order under section 9 of the Road Traffic Regulation Act 1984 (c.27);
 - “fixed penalty notice” has the same meaning as in Part III of the Road Traffic Offenders Act 1988 (c.53); and
 - “temporary traffic restriction order” means an order under section 14 or 16A of the Road Traffic Regulation Act 1984 (c.27).

45 Registered services: minimum period of operation

In section 6 of the 1985 Act (registration of local services)—

- (a) in subsection (3), for the words “subsection (2) above” there shall be substituted “this section”; and
- (b) after subsection (8) there shall be inserted—
 - “(8A) Where a service is registered under this section or, as the case may be, a registration is varied under this section, the operator of the service which has been registered, or in respect of which the registration has been varied, shall provide that service for a period of at least 90 days (or, as the case may be, such other period as the traffic commissioner may specify) beginning with the day on which the period of notice expires or, as the case may be, the variation becomes effective.”.

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46 Power to restrict dates on which scheduled timings of local services may be varied

In section 6 of the 1985 Act (registration of local services)—

(a) after paragraph (d) of subsection (9) there shall be inserted—

“(da) subject to subsection (10) below, specifying dates as the only dates on which the operator of a local service in the area (or areas) of such local authority (or authorities) as may be specified in the regulations may vary a registration in so far as it relates to the scheduled times of the local service in respect of which the registration is made;”;

and

(b) after subsection (9) there shall be inserted—

“(10) Regulations making provision such as is mentioned in subsection (9) (da) above may not—
 (a) have effect for a period of more than three years;
 (b) specify more than four dates in a calendar year as dates on which a registration may be varied.”.

47 Co-operation

- (1) In considering whether to make a [^{F14}partnership scheme][^{F15}or franchising framework] or ticketing scheme a local transport authority shall have regard to the desirability, in appropriate cases, of making a [^{F16}scheme or framework] jointly with another authority.
- (2) A local transport authority shall, in determining their opinion under paragraph (a) of section 35 of this Act, have regard to the desirability, in appropriate cases, of carrying out their functions under sections 33 and 34 of this Act jointly with another authority (whether as respects the whole or any part of their combined area).
- (3) Local transport authorities shall in carrying out their functions—
 - (a) under this Part of this Act in relation to [^{F17}partnership schemes][^{F18}and franchising frameworks] and ticketing schemes; and
 - (b) under sections 33 and 34 of this Act, co-operate with one another.

Textual Amendments

- F14** Words in s. 47(1) substituted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), [sch. para. 3\(5\)\(a\)\(i\)](#) (with s. 126); S.S.I. 2023/250, sch.
- F15** Words in s. 47(1) substituted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), [sch. para. 3\(5\)\(a\)\(ii\)](#) (with s. 126); S.S.I. 2023/250, sch.
- F16** Words in s. 47(1) substituted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), [sch. para. 3\(5\)\(a\)\(iii\)](#) (with s. 126); S.S.I. 2023/250, sch.
- F17** Words in s. 47(3)(a) substituted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), [sch. para. 3\(5\)\(b\)\(i\)](#) (with s. 126); S.S.I. 2023/250, sch.
- F18** Words in s. 47(3)(a) substituted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), [sch. para. 3\(5\)\(b\)\(ii\)](#) (with s. 126); S.S.I. 2023/250, sch.

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Modifications etc. (not altering text)

- C9** S. 47: transfer of functions (1.11.2006) by [Transfer of Functions to the Shetland Transport Partnership Order 2006 \(S.S.I. 2006/527\)](#), arts. 1, 3, **Sch. 1** (with art. 5)
- C10** S. 47: transfer of functions (7.11.2006) by [Transfer of Functions to the South-West of Scotland Transport Partnership Order 2006 \(S.S.I. 2006/538\)](#), art. 1, **Sch. 1** (with art. 5)

Interpretation of Part

48 Interpretation of Part 2

(1) ^{F19}Subject to subsection (1A)] in this Part of this Act—

“community bus permit” means a permit under section 22 of the 1985 Act;

“local service” has the meaning given by section 2 of the 1985 Act;

^{F20}
...

^{F21}“operational service standard” is to be construed in accordance with section 3C(1)(b);

^{F22}
...

^{F23}
...

“relevant general policies”, in relation to a local transport authority, means the authority’s local transport strategy and—

(a) where the authority is a local authority,

^{F24}(i) the policies formulated by them from time to time under section 63(2)(b) of the 1985 Act; ^{F25} or

(ii) any policies formulated by them from time to time in accordance with that strategy which, were the area to which those policies relate not in a passenger transport area, could have been formulated by them under that provision and which relate to ^{F26}providing services of the kind mentioned in section 2A(1) of this Act or] matters which may be the subject matter of ^{F27}a partnership scheme or a franchising framework];

(b) where the authority is the Strathclyde Passenger Transport Authority, the policies formulated by them from time to time under section 9A(1) of the Transport Act 1968 (c.73);

^{F28}“route service standard” is to be construed in accordance with section 3C(1)(a);

^{F29}
...

^{F29}
...

^{F30}“Transport Partnership” means a Transport Partnership created by order under section 1 the Transport (Scotland) Act 2005];

“traffic commissioner” means the person appointed from time to time to be the commissioner for Scotland under section 4 of the Public Passenger Vehicles Act 1981 (c.14); and

“traffic regulation order” means an order under—

(a) the Road Traffic Regulation Act 1984 (c.27); or

(b) any other enactment (other than this Act),

regulating the use of roads or other places by public service vehicles.

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- [^{F31}(1A) The definition of “traffic regulation order” in subsection (1) does not apply for the purposes of chapter 1 of this Part.]
- (2) In this Part of this Act the following expressions have the same meaning as in the Public Passenger Vehicles Act 1981 (c.14)—
- “fares”;
 - “modification”;
 - “public service vehicle”; and
 - “PSV operator’s licence”.
- (3) References in this Part of this Act to the operator of a passenger transport service of any description are to be construed in accordance with section 137(7) of the 1985 Act.

Textual Amendments

- F19** Words in s. 48(1) inserted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), **sch. para. 3(6)(a)(i)** (with s. 126); S.S.I. 2023/250, sch.
- F20** Words in s. 48(1) repealed (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), **sch. para. 3(6)(a)(ii)** (with s. 126); S.S.I. 2023/250, sch.
- F21** Words in s. 48(1) inserted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), **sch. para. 3(6)(a)(iii)** (with s. 126); S.S.I. 2023/250, sch.
- F22** Words in s. 48(1) repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **Sch. 8 Pt. 1**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F23** Words in s. 48(1) repealed (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), **sch. para. 3(6)(a)(iv)** (with s. 126); S.S.I. 2023/250, sch.
- F24** Word in s. 48(a) inserted (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 51(2)(a)**, 54(2); S.S.I. 2005/454, art. 2, Sch. 2
- F25** S. 48(a)(ii) and preceding word inserted (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 51(2)(b)**, 54(2); S.S.I. 2005/454, art. 2, Sch. 2
- F26** Words in s. 48(1) inserted (24.6.2022) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), **sch. para. 3(6)(a)(v)(A)** (with s. 126); S.S.I. 2022/204, reg. 2(b)
- F27** Words in s. 48(1) substituted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), **sch. paras. 3(6)(a)(v)(B)**, (with s. 126); S.S.I. 2023/250, sch.
- F28** Words in s. 48(1) inserted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), **sch. para. 3(6)(a)(vi)** (with s. 126); S.S.I. 2023/250, sch.
- F29** Words in s. 48(1) repealed (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), **sch. para. 3(6)(a)(vii)** (with s. 126); S.S.I. 2023/250, sch.
- F30** Words in s. 48(1) inserted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), **sch. para. 3(6)(a)(viii)** (with s. 126); S.S.I. 2023/250, sch.
- F31** S. 48(1A) inserted (4.12.2023) by [Transport \(Scotland\) Act 2019 \(asp 17\)](#), s. 130(2), **sch. para. 3(6)(b)** (with s. 126); S.S.I. 2023/250, sch.

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 2 Ch. 3 applied in part by [2019 asp 17 s. 47\(1\)\(2\)](#)
- Pt. 2 Ch. 3 inserted by [2019 asp 17 s. 41\(2\)](#)
- Pt. 2 Ch. 4 heading inserted by [2019 asp 17 sch. para. 3\(2\)](#)
- s. 27B and cross-heading inserted by [2019 asp 17 s. 42\(2\)](#)
- s. 29(3A)-(3C) inserted by [2019 asp 17 s. 44\(2\)\(a\)](#)
- s. 29(7)(8) inserted by [2019 asp 17 s. 44\(2\)\(c\)](#)
- s. 30(3)(ca)-(cc) inserted by [2019 asp 17 s. 44\(3\)\(b\)](#)
- s. 31(1A) inserted by [2019 asp 17 s. 44\(4\)\(a\)](#)
- s. 31(3)(ca) inserted by [2019 asp 17 s. 44\(4\)\(b\)\(iii\)](#)
- s. 31(5)-(7) inserted by [2019 asp 17 s. 44\(4\)\(d\)](#)
- s. 32A inserted by [2019 asp 17 s. 45\(2\)](#)
- s. 32B and cross-heading inserted by [2019 asp 17 s. 46\(2\)](#)
- s. 35A inserted by [2019 asp 17 s. 40\(2\)](#)
- s. 39(1)(ca) inserted by [2019 asp 17 s. 40\(3\)](#)
- s. 79(1)(ca) inserted by [2019 asp 17 s. 48\(2\)\(b\)](#)