



# Transport (Scotland) Act 2001

## 2001 asp 2

### PART 2

#### BUS SERVICES

#### [<sup>F1</sup>CHAPTER 2]

#### [<sup>F1</sup>LOCAL SERVICES FRANCHISES]

#### *Financial and competition provisions*

### 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 [<sup>F1</sup>3F(1) or 13B(1)(b) or (3)] of this Act; <sup>F2</sup>...
  - [<sup>F3</sup>(ba) failed to comply with a requirement under section 6ZA of the 1985 Act,]
  - [<sup>F4</sup>(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 [<sup>F5</sup>; or ]
  - [<sup>F5</sup>(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,

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**Changes to legislation:** *Transport (Scotland) Act 2001, Section 39 is up to date with all changes known to be in force on or before 16 May 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*

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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**

- F1** 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.
- F2** 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
- F3** 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.
- F4** 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.
- F5** 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

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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\(2\)\(b\)](#)