



Transport (Scotland) Act 2019

2019 asp 17

PART 3

BUS SERVICES

Local services franchises

38 Franchising arrangements for local services

- (1) The Transport (Scotland) Act 2001 is amended as follows.
- (2) For sections 13 to 27 (including the italic heading immediately preceding section 13) substitute—

“CHAPTER 2

LOCAL SERVICES FRANCHISES

Franchising frameworks and franchise agreements

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.

Process for making franchising frameworks

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.

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- (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—
 - (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.

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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.
- (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,

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- (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,
 - (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

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- (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,
 - (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—

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- (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—
 - (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.

Entering into franchise agreements

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.

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- (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 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.

Postponement, variation and revocation of franchise frameworks

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

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- (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—
- (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

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- (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),
 - (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.

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- (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—
 - (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—

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- (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
 - (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.

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- (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.

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,

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- (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.”.