



# Local Transport Act 2008

## 2008 CHAPTER 26

### PART 3

#### BUS SERVICES

##### *Making and duration of quality contracts schemes*

#### **26 Making of scheme**

- (1) Section 127 of the TA 2000 (making of scheme) is amended as follows.
- (2) For subsection (1) (making of scheme to be not later than 6 months after approval by appropriate national authority) substitute—

- “(1) The authority or authorities who proposed the scheme may make it—
- (a) in the case of a scheme for an area in England, in accordance with the requirements of subsection (1A);
  - (b) in the case of a scheme for an area in Wales, in accordance with the requirements of subsection (1B).

- (1A) If the scheme is for an area in England, the authority or authorities who proposed it—

- (a) must not make the scheme until they publish a response prepared by them to the report published by the QCS board under section 126D(5) in relation to the scheme, but
- (b) subject to that, may make the scheme at any time not later than 6 months after the publication of that report.

Any such response must state the actions (if any) which the authority or authorities have taken in relation to each of the board’s recommendations (if any) under section 126D(2) or (3).

- (1B) If—

- (a) the scheme is for an area in Wales, and

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- (b) the Welsh Ministers approve the scheme under section 126, the authority or authorities who proposed it may make it, as approved, at any time not later than 6 months after the date of the approval.”.
- (3) In subsection (2) (what the scheme must specify) for paragraph (b) (date on which scheme comes into operation etc) substitute—
- “(b) the date on which it is to come into operation or, if the scheme provides for different provisions to come into operation on different dates, or on different dates for different purposes, those dates in the case of each provision, and”.
- (4) In subsection (2), in paragraph (c) (maximum period for which scheme to remain in operation) after “ten years” insert “from the earliest date on which the scheme or any of its provisions comes into operation.”.
- (5) After subsection (2) insert—
- “(2A) No date that is to be specified under subsection (2)(b) may be earlier than 6 months after the scheme is made.”.
- (6) After subsection (3) insert—
- “(3A) The scheme must specify the date or dates on which it is proposed that the authority or authorities will issue invitations to tender for the provision of any services to which the scheme relates (see section 130).”.
- (7) In subsection (9) (contents of notice under subsection (8)) for paragraph (c) (date on which scheme comes into operation) substitute—
- “(c) the date or dates on which the scheme, or the different provisions of the scheme, are to come into operation.”.
- (8) For subsection (10) (power by order to vary the period mentioned in subsection (2)(b)) substitute—
- “(10) The appropriate national authority may by order vary any of the periods mentioned in subsection (1A), (1B) or (2A).”.
- (9) In section 162(4) of the TA 2000 (provisions where references to Passenger Transport Authorities or Integrated Transport Authorities are to be read as references to Passenger Transport Executives) insert at the appropriate place in the list of provisions—
- “section 127(3A).”.

## 27 Appeals against the making of schemes for areas in England

- (1) After section 127 of the TA 2000 insert—

### “127A Appeals against the making of schemes for areas in England

- (1) This section applies where an authority or authorities make a quality contracts scheme for an area in England.
- (2) Any person falling within subsection (3) may appeal to the Transport Tribunal against the decision of the authority or authorities to make the scheme.
- (3) The persons are—

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- (a) any person who was consulted under section 125(3),
  - (b) any person who was not consulted under section 125(3) but who, in the opinion of the QCS board under section 126D(1)(b), ought to have been so consulted.
- (4) An appeal under this section may be—
  - (a) on a point of law, or
  - (b) on a question of fact, unless subsection (5) prevents it.
- (5) No appeal lies under this section on a question of fact (and no question of fact is to be entertained by the Tribunal on an appeal under this section) in any case where subsection (6) applies.
- (6) This subsection applies if the QCS board stated in its report under section 126D(5) that it is of the opinion—
  - (a) that the conditions in the paragraphs of section 124(1) or, as the case may be, of section 124(1A) are met, and
  - (b) that the authority or authorities have complied with the requirements of section 125(1) to (3) (or are by virtue of section 126D(6) to be taken to have complied with those requirements by virtue of having taken any action recommended by the board in any previous reports), and if the scheme, as made, corresponds to the proposed scheme to which that report relates.
- (7) The authority or authorities may issue invitations to tender in accordance with section 130(1) notwithstanding the lodging of any appeal under or by virtue of this section.

#### **127B Powers of the Transport Tribunal on an appeal under section 127A**

- (1) On an appeal under section 127A the Transport Tribunal shall have power—
  - (a) to make such order as they think fit, or
  - (b) to remit any matter (with or without directions) to the authority or authorities for their consideration or determination or for such other purposes as the Tribunal may direct.
- (2) The powers of the Tribunal on an appeal under section 127A include power to do any one or more of the following—
  - (a) dismiss the appeal in whole or in part,
  - (b) remit the matter to the authority or authorities with one or more directions under subsection (3),
  - (c) direct the authority or authorities to vary the scheme in such manner as the Tribunal may specify in the direction (but see subsection (4)),
  - (d) quash the decision of the authority or authorities (but see subsection (5)).
- (3) A direction under this subsection is a direction for the authority or authorities to do each of the following—
  - (a) consider or reconsider such matters as may be specified in the direction,
  - (b) consult or further consult as respects those matters in such manner as may be specified in the direction,

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- (c) vary the scheme in such respects as may in consequence appear appropriate to the authority or authorities.
  - (4) The Tribunal may give a direction under this section to vary the scheme by reducing the area to which the scheme relates only if they are of the opinion that the conditions in section 132(3) are met.
  - (5) The power of the Tribunal under this section to quash the decision of the authority or authorities is exercisable only if the Tribunal are of the opinion that there are defects in the scheme which are not capable of being remedied by varying the scheme under or by virtue of subsection (2)(b) or (c).
  - (6) Where, on an appeal under section 127A, the Tribunal exercises any power falling within paragraph (b) of subsection (2) above, the only further appeal allowed under that section is an appeal against a decision of the authority or authorities to vary, or not to vary, the scheme by virtue of subsection (3)(c)."
- (2) In section 162(4) of the TA 2000 (provisions where references to Passenger Transport Authorities or Integrated Transport Authorities are to be read as references to Passenger Transport Executives) insert at the appropriate place in the list of provisions—
- “section 127A(7),”.

## **28 Postponement of scheme in part**

In section 128 of the TA 2000 (postponement of scheme) in subsection (1)—

- (a) after “the scheme”, in the second place where those words occur, insert “, or any particular provision of the scheme,”;
- (b) after “would otherwise come into operation” insert “, or come into operation for any particular purpose or purposes,”.

## **29 Effect of scheme: different operational dates and excepted services**

- (1) Section 129 of the TA 2000 (effect of scheme) is amended as follows.
- (2) In subsection (1) (consequences for period during which scheme is in operation)—
- (a) after “the scheme” insert “, or (in the case of a scheme which provides for different provisions to come into operation on different dates) any provision of the scheme,”;
  - (b) in paragraph (a), for “the area to which it relates” substitute “the area to which the scheme, or that provision, relates”;
  - (c) in paragraph (b), after “under a quality contract” insert “or is an interim service (see section 132C)”.
- (3) In subsection (2) (exception for services excluded from the scheme by virtue of section 127(4)) after “But subsection (1) does not apply” insert “—
- (a) so as to prevent the application of sections 6 to 9 of the Transport Act 1985 in relation to any service by virtue or in consequence of section 6B of that Act (application for registration or variation where quality contracts scheme in force),
  - (b) so as to prevent the provision of any service registered under section 6 of the Transport Act 1985 by virtue of section 6B of that Act, or
  - (c)”.

- (4) Subsection (4) (tenders to be invited not later than 3 months after the scheme has been made) shall cease to have effect.

**30 Extension of maximum period of quality contracts**

- (1) Section 130 of the TA 2000 (tendering for quality contracts) is amended as follows.
- (2) In subsection (1) (authority to tender for provision of services) after “services to which the scheme” insert “, or each provision of the scheme,”.
- (3) In subsection (2) (period of contract not to exceed five years) for “five” substitute “10”.